



भारत का राजपत्र

The Gazette of India

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

साप्ताहिक

WEEKLY

सं. 52]

नई दिल्ली, दिसम्बर 22—दिसम्बर 28, 2013, शनिवार/पौष 1—पौष 7, 1935

No. 52]

NEW DELHI, DECEMBER 22—DECEMBER 28, 2013, SATURDAY/PAUSA 1—PAUSA 7, 1935

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

**Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)**

वाणिज्य और उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 2733.—केंद्रीय सरकार, निर्यात (व्यालिटी नियंत्रण और निरीक्षण) नियम 1964 के नियम 12 के उपनियम (2) के साथ पठित निर्यात (व्यालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स इंस्पैक्टरेट ग्रीफथ इंडिया प्रा०लि० 488, खानजनचक, हल्दिया-721602, जिला पूर्वी मिदनापुर, पश्चिम बंगाल को भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना का०आ० संख्या 3975 तारीख 20 दिसंबर 1965 और का०आ० संख्या 3978 तारीख 20 दिसंबर, 1965 से उपाबद्ध अनुसूची में क्रमशः विनिर्दिष्ट खनिजों और अयस्कों (समूह-1) अर्थात् लौह अयस्क, मैग्नीज अयस्कों, लौह मैग्नीज बाक्साईड ओर (समूह-2) क्रोम अयस्क, उक्त खनिजों और अयस्कों का हल्दिया में निर्यात से पूर्व निरीक्षण करने के लिए इस अधिसूचना में प्रकाशन की तारीख से 3 वर्ष की अवधि के लिए निम्नलिखित शर्तों के अधीन एक अभिकरण के रूप में मान्यता प्रदान करती है, अर्थात्:—

(i) यह कि मैसर्स इंस्पैक्टरेट ग्रीफथ इंडिया प्रा० लि० 488, खानजनचक, हल्दिया-721602, जिला पूर्वी मिदनापुर, पश्चिम बंगाल

खनिज और अयस्क, समूह-1 (निरीक्षण) नियम 1965 के नियम 4 के अधीन निरीक्षण करने के लिए उनके द्वारा अनुसरित की जाने वाली निरीक्षण की पद्धति की परीक्षा करने के लिए निर्यात निरीक्षण परिषद द्वारा इस निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं प्रदान करेगा।

(ii) यह कि मैसर्स इंस्पैक्टरेट ग्रीफथ इंडिया प्रा० लि० 488, खानजनचक, हल्दिया-721602, जिला पूर्वी मिदनापुर, पश्चिम बंगाल इस अधिसूचना के अधीन अपने कृत्यों के पालन में ऐसे निदेशों से आबद्धकर होंगा जो निदेशक (निरीक्षण और व्यालिटी नियंत्रण) निर्यात निरीक्षण परिषद द्वारा समय समय पर दिए जाएं।

[का० सं० 4-6-2013-निर्यात निरीक्षण]

ए० के० त्रिपाठी, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 18th December, 2013

S.O.2733.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Inspectorate Griffith India Private Limited, 488,

Khanjanchak, Haldia-721602, Distt. East Midnapore, West Bengal, as an agency for a period of three years from the date of publication of this notification, for the inspection of Minerals and Ores (Group-I) namely, Iron ores, Manganese ores, Ferro Manganese, Bauxite and Group II Chrome ore, specified in the schedule annexed to the notification of the Government of India in the Ministry of Commerce vide S.O. No. 3975, dated the 20th December, 1965 and S.O. No. 3978, dated the 20th December, 1965 respectively, prior to export of the said Minerals and Ores at Haldia, subject to the following conditions, namely:—

(i) that M/s. Inspectorate Griffith India Private Limited, 488, Khanjanchak, Haldia-721602, Dist. East Midnapore, West Bengal, shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in carrying out the inspection under rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965; and

(ii) that M/s. Inspectorate Griffith India Private Limited, 488, Khanjanchak, Haldia-721602, Distt. East Midnapore, West Bengal, in the performance of their function under this notification shall be bound by such directions as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F.No. 4-6-2013-Export Inspection]
A.K. TRIPATHY, Jt. Secy.

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 2734.—केंद्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम 1964 के नियम 12 के उपनियम (2) के साथ पठित निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स मिनरलस लैब् सर्विसेस प्रा० लि० प्लाट सं० 25-8-141 में स्थित प्रथम तल, थोमसन स्ट्रीट, पुराना पोस्ट ऑफिस के निकट, विशाखापत्तनम-530001 को भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना का०आ० संख्या 3975 तारीख 20 दिसंबर, 1965 से उपाबद्ध अनुसूची में विनिर्दिष्ट खनिजों और अयस्कों (समूह-1) अर्थात् लौह अयस्क, उक्त खनिजों और अयस्कों का विशाखापत्तनम में निर्यात से पूर्व निरीक्षण करने के लिए इस अधिसूचना में प्रकाशन की तारीख से 3 वर्ष की अवधि के लिए निम्नलिखित शर्तों के अधीन एक अभिकरण के रूप में मान्यता प्रदान करती है, अर्थात्:—

(i) यह कि मैसर्स मिनरलस लैब् सर्विसेस प्रा० लि० प्लाट सं० 25-8-141 में स्थित प्रथम तल, थोमसन स्ट्रीट, पुराना पोस्ट ऑफिस के निकट, विशाखापत्तनम-530001 खनिज और अयस्क, समूह-1 (निरीक्षण) नियम 1965 के नियम 4 के अधीन निरीक्षण करने के लिए उनके द्वारा अनुसरित की जाने वाली निरीक्षण की पद्धति की परीक्षा करने के लिए निर्यात निरीक्षण परिषद द्वारा इस निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं प्रदान करेगा।

(ii) यह कि मैसर्स मिनरलस लैब् सर्विसेस प्रा० लि० प्लाट सं० 25-8-141 में स्थित प्रथम तल, थोमसन स्ट्रीट, पुराना पोस्ट ऑफिस के

निकट, विशाखापत्तनम-530001 इस अधिसूचना के अधीन अपने कृत्यों के पालन में ऐसे निदेशों से आबद्ध कर होगा जो निदेशक (निरीक्षण और क्वालिटी नियंत्रण) निर्यात निरीक्षण परिषद द्वारा समय समय पर दिए जाएं।

[फा० सं० 4/3/2013-निर्यात निरीक्षण]

ए० के० त्रिपाठी, संयुक्त सचिव

New Delhi, the 18th December, 2013

S.O.2734.—In exercise of the powers conferred by the sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Minerals Lab Services Pvt. Ltd., located at Plot No. 25-8-141, 1st Floor Thomson Street, Near Old Post Office, Vishakhapatnam-530001, India, as an agency for a period of three years from the date of publication of this notification in the Official Gazette, for the inspection of Minerals and Ores Group-I, namely, Iron Ores, specified in the Schedule annexed to the notification of the Government of India, in the Ministry of Commerce vide S.O. Number. 3975, dated the 20th December, 1965, prior to export of the said minerals and ores at Vishakhapatnam, subject to the following conditions, namely:—

(i) that M/s. Minerals Lab Services Pvt. Ltd., located at Plot No. 25-8-141, 1st Floor Thomson Street, Near Old Post Office, Vishakhapatnam-530001, shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in carrying out the inspection under rule 4 of the Export of Minerals and Ores - Group-I (Inspection) Rules, 1965; and

(ii) that M/s. Minerals Lab Services Pvt. Ltd., located at Plot No. 25-8-141, 1st Floor Thomson Street, Near Old Post Office, Vishakhapatnam-530001, in the performance of their function under this notification shall be bound by such directions as the Director (Inspection and Quality Control), may give in writing from time to time.

[F.No. 4/3/2013-Export Inspection]
A.K. TRIPATHY, Jt. Secy.

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 2735.—केंद्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम 1964 के नियम 12 के उपनियम (2) के साथ पठित निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ऐसन एंड कंपनी, विश्वाकमल बिल्डिंग में स्थित, द्वितीय तल (पिछला भाग) बैंडकम्पैडी, मैंगलोर-575019 को भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना का०आ० संख्या 3975 तारीख 20 दिसंबर, 1965 से उपाबद्ध अनुसूची में विनिर्दिष्ट खनिजों और अयस्कों (समूह-1) अर्थात् लौह अयस्क, मैग्नीज अयस्क उक्त खनिजों और अयस्कों का मैंगलोर में निर्यात से पूर्व निरीक्षण करने के लिए

इस अधिसूचना में प्रकाशन की तारीख से 3 वर्ष की अवधि के लिए निम्नलिखित शर्तों के अधीन एक अभिकरण के रूप में मान्यता प्रदान करती है, अर्थात्:—

(i) यह कि मैसर्स ऐसन एंड कंपनी, विश्वाकमल बिल्डिंग में स्थित, द्वितीय तल (पिछला भाग) बैंकमैडी, मैंगलोर-575019 खनिज और अयस्क, समूह-1 (निरीक्षण) नियम 1965 के नियम 4 के अधीन निरीक्षण करने के लिए उनके द्वारा अनुसरित की जाने वाली निरीक्षण की पद्धति की परीक्षा करने के लिए निर्यात निरीक्षण परिषद द्वारा इस निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं प्रदान करेगा।

(ii) यह कि मैसर्स ऐसन एंड कंपनी विश्वाकमल बिल्डिंग में स्थित, द्वितीय तल (पिछला भाग) बैंकमैडी, मैंगलोर-575019 इस अधिसूचना के अधीन अपने कृत्यों के पालन में ऐसे निदेशों से आबद्धकर होगा जो निदेशक (निरीक्षण और क्वालिटी नियंत्रण) निर्यात निरीक्षण परिषद द्वारा समय समय पर दिए जाएँ।

[फा० सं० 4/5/2013-निर्यात निरीक्षण]

ए० के० त्रिपाठी, संयुक्त सचिव

New Delhi, the 18th December, 2013

S.O.2735.—In exercise of the powers conferred by the sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Essen & Co., located at Vishwakamal Building, II Floor (Rear portion), Baikampady, Mangalore 575019, as an agency for a period of three years from the date of publication of this notification in the Official Gazette, for the inspection of Minerals and Ores (Group-I), namely, Iron Ore and Manganese Ore, specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce vide S.O. number 3975 dated the 20th December, 1965, prior to export of said minerals and ores at Mangalore, subject to the following conditions, namely:—

(i) that M/s. Essen & Co., located at Vishwakamal Building, II Floor (Rear portion), Baikampady, Mangalore-575019 shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in carrying out the inspection under rule 4 of the Export of Minerals and Ores-Group I (Inspection) Rules, 1965; and

(ii) that M/s. Essen & Co., located at Vishwakamal Building, II Floor (Rear portion), Baikampady, Mangalore-575019, in the performance of their function under this notification shall be bound by such directions as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 4/5/2013-Export Inspection]

A.K. TRIPATHY, Jt. Secy.

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 2736.—केंद्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम 1964 के नियम 12 के उपनियम (2) के साथ पठित निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ऐस०जी०एस० इंडिया प्राइवेट लिमिटेड, बी०एन०टी० कनेक्शन बिल्डिंग, 28बी०/1 (एस०पी०), 28बी०/2 (एस०पी०), दूसरी मुख्य सड़क, अम्बातुर औद्योगिक ऐस्टेट, अम्बातुर, चेन्नई को भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना सं० का०आ० 3975 तारीख 20 दिसंबर, 1965 और का०आ० सं०छ्या 3978 तारीख 20 दिसंबर, 1965 से उपाबद्ध अनुसूची में क्रमशः विनिर्दिष्ट खनिजों और अयस्कों (समूह-1) अर्थात् लौह अयस्क और समूह-2 बैरिटेस, रेड ऑक्साइड और फैल्डस्पार, उक्त खनिजों और अयस्कों का चेन्नई, इनौर और क्रिशनापुरम में निर्यात से पूर्व निरीक्षण करने के लिए इस अधिसूचना में प्रकाशन की तारीख से 3 वर्ष की अवधि के लिए निम्नलिखित शर्तों के अधीन एक अभिकरण के रूप में मान्यता प्रदान करती है, अर्थात्:—

(i) यह कि मैसर्स ऐस०जी०एस० इंडिया प्राइवेट लिमिटेड, बी०एन०टी० कनेक्शन बिल्डिंग, 28बी०/1 (एस०पी०), 28बी०/2 (एस०पी०), दूसरी मुख्य सड़क, अम्बातुर औद्योगिक ऐस्टेट, अम्बातुर, चेन्नई, खनिज और अयस्क, समूह-1 (निरीक्षण) नियम 1965 के नियम 4 के अधीन निरीक्षण करने के लिए उनके द्वारा अनुसरित की जाने वाली निरीक्षण की पद्धति की परीक्षा करने के लिए निर्यात निरीक्षण परिषद द्वारा इस निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं प्रदान करेगा।

(ii) यह कि मैसर्स ऐस०जी०एस० इंडिया प्राइवेट लिमिटेड, बी०एन०टी० कनेक्शन बिल्डिंग, 28बी०/1 (एस०पी०), 28बी०/2 (एस०पी०), दूसरी मुख्य सड़क, अम्बातुर औद्योगिक ऐस्टेट, अम्बातुर, चेन्नई इस अधिसूचना के अधीन अपने कृत्यों के पालन में ऐसे निदेशों से आबद्धकर होगा जो निदेशक (निरीक्षण और क्वालिटी नियंत्रण) निर्यात निरीक्षण परिषद द्वारा समय समय पर दिए जाएँ।

[फा० सं० 4/8/2013-निर्यात निरीक्षण]

ए० के० त्रिपाठी, संयुक्त सचिव

New Delhi, the 18th December, 2013

S.O. 2736.—In exercise of the powers conferred by the sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. SGS India Private Limited, B.N.T. connection building, 28 B/1 (SP), 28 B/2 (SP), second main road, Ambattur Industrial Estate, Ambattur, Chennai, as an agency for a period of three years from the date of publication of this notification, for the inspection of Minerals and Ores (Group I) namely, Iron ore and Group II Barytes, red Oxide and Feldspar, specified in the schedule annexed to the notification of the Government of India in the Ministry of Commerce vide number S.O. 3975, dated the 20th December, 1965, and S.O. 3978, dated the 20th December, 1965 respectively, prior to export of the said Minerals and Ores at Chennai, Ennore and Krishnapatnam, subject to the following conditions, namely:—

(i) that M/s. SGS India Private Limited, B.N.T. connection building, 28 B/1 (SP), 28 B/2 (SP), second main Road, Ambattur Industrial Estate, Ambattur, Chennai, shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in carrying out the inspection under rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965 and the Export of Minerals and Ores, Group-II (Inspection) Rules, 1965; and

(ii) that M/s. SGS India Private Limited, B.N.T. connection building, 28 B/1 (SP), 28 B/2 (SP), second main Road, Ambattur Industrial Estate, Ambattur, Chennai, in the performance of their function under this notification shall be bound by such directions as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 4/8/2013-Export Inspection]
A. K. TRIPATHY, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक व्यूरो)

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 2737.— भारतीय मानक व्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:—

अनुसूची

क्र०	लाइसेंस सं०	स्वीकृत करने की तिथि, वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्ष	भा. मा. सं० (भाग/अनुभाग) : वर्ष
1.	4650665	20131008	मेसर्स गोल्डन ब्रिंज वेलिंग एलक्ट्रोइंड्स सं० 2658, एल एम डब्ल्यू (आर एल एम) रोड, एस एफ सं० 462/3, मुतुकवन्डन पुदर, कोयम्बत्तूर-641406	कॉर्बन एवं कॉर्बन मैंगनीस संरचना इस्पात की धातु आर्क वेलिंग के लिए आवरित इलैक्ट्रोड	IS 814 : 2004
2.	4650766	20131008	मेसर्स वी-गार्ड इंडस्ट्रीस लिमिटेड 21/113, E, कारयम पालयम रोड, मैलपट्टी पोस्ट, कोयम्बत्तूर-641062	प्रेरक मोटर - ऊर्जा दक्ष, तीन फेज, स्क्वरल केज	IS 12615 : 2004
3.	4651364	20131009	मेसर्स अम्मन एन्नसीस सं० 119, पनैमरतूर मुख्य सड़क, तेलुन्नुपालयम पोस्ट, कोयम्बत्तूर-641039	पैकेजबंद पेय जल (पैकेजबंद मिनरल जल के अलावा)	IS 14543 : 2004
4.	4651869	20131010	मेसर्स टेक्स्मो इंडस्ट्रूस (पम्प डिविशन-II) 4/133A, पनीमडै रोड, केंवडमदुरै, कोयम्बत्तूर-641017	निम्मजनीय पम्पसेट के लिए मोटर	IS 9283 : 1995
5.	4654067	20131017	मेसर्स एक्वा फ्लो 2/189-C, कारयम पालयम रोड, मैलपट्टी पोस्ट, कोयम्बत्तूर-641062	कृषि एवं जल आपूर्ति के लिए बिजली के मोनोसेट पम्प्स	IS 9079 : 2002
6.	4654370	20131021	मेसर्स जुल्फी एक्वा फार्म्स एस एफ सं० 122/3, 4-37A, सीरापालयम, बोडीपालयम पोस्ट, मदकुकरै (के रास्ते), कोयम्बत्तूर-641105	पैकेजबंद पेय जल (पैकेजबंद मिनरल जल के अलावा	IS 14543:2004
7.	4657982	20131031	मेसर्स महिल इरिगेशन सिस्टम्स 6/290, गोबी मुख्य सड़क, अन्ना नगर, सीनापुरम गांव, पेरुन्दरै तालुक, ईरोड-638057	सिंचाई उपस्कर - उत्सर्जकी पाइप पद्धतियां	IS 13488 : 2008
8.	4658681	20131031	मेसर्स सी आर मोटर्स प्रायवेट लिमिटेड 79/2, दूसरा माला, के.सी.आर्केंड, टी.वी. सामी रोड, आर. एस पुरम, कोयम्बत्तूर-641002	तीन फेज प्रेरक मोटर	IS 325 : 1996

[सं० सी एम डी/13:11]
एम० सदाशिवम, वैज्ञानिक 'एफ' एवं प्रमुख

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)
(BUREAU OF INDIAN STANDARDS)

New Delhi, the 18th December, 2013

S.O.2737.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulation 1988, of the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedule:

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and Address (Factory) of the Party	Title of the Standard	IS No. Part/ Sec. Year
1.	4650665	20131008	M/s. Golden Bridge Welding Electrodes No. 2658, LMW (RLM) Road, S.F. 462/3, Muthukavandan Pudur, Combatore-641406	Covered electrodes for manual metal arc welding of carbon and carbon manganese steel	IS 814 : 2004
2.	4650766	20131008	M/s. V-Guard Industries Ltd. 21/113E, Karayam Palayam Road, Mylampatti Post, Coimbatore-641062	Induction Motors - Energy Efficient, Three-phase, Squirrel Cage	IS 12615 : 2004
3.	4651364	20131009	M/s. Amman Agencies, No. 119, Panaimarathur Main Road, Telungupalayam (P.O.) Coimbatore-641039	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
4.	4651869	20131010	M/s. Texmo Industries (Pump Division-II) 4/133A, Pannimadai Road, K. Vadamadurai, Coimbatore-641017	Motors for Submersible Pumpsets	IS 9283 : 1995
5.	4654067	20131017	M/s. Aqua Flow 2/189-C, Karayampalayam Road, Mylampatti Post, Coimbatore-641 062	Electric Monoset Pumps for clear, cold water for agricultural and water supply purposes	IS 9079 : 2002
6.	4654370	20131021	M/s. Zulfi Aqua Farms SF No. 122/3, 4/37A, Seerapalayam, Bodipalayam (P.O.), Madukkarai (Via), Coimbatore-641105	Package Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
7.	4657982	20131031	M/s. Mahil Irrigation System 6/290, Gobi Main Road, Anna Nagar, Seenapuram Village, Perundurai (Tk), Erode-638 057	Irrigation Equipment - Emitting Pipe Systems	IS 13488 : 2008
8.	4658681	20131031	M/s. CR Motors Private Limited 79/2, II Floor, K.C. Arcade, T.V. Samy Road, R.S. Puram, Coimbatore-641 002	Three phase induction motors	IS 325 : 1996

[No. CMD/13:11]

M. SADASIVAM, Scientist 'F' & Head

नई दिल्ली, 18 दिसम्बर, 2013

कांग्रेस 2738.—भारतीय मानक व्यूरो (प्रमाणन) विनियम 1988 के विनियमन 5 के उपविनियमन (6) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शाई गई तारीख से रद्द/स्थगित कर दिया गया है:—

अनुसूची

क्र०	लाइसेंस सं सं	लाइसेंसधारी का नाम व पता	स्थगित किए गए रद्द किए गए लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द होने की तिथि

अक्टूबर 2013 – शून्य

[सं^० सी एम डी/13:13]
एम^० सदाशिवम, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 18th December, 2013

S.O.2738.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that the licence particulars of which are given below have been cancelled/suspended with effect from the date indicated against each:

SCHEDULE

Sl. No.	Licence No.	Name & Address of the Licensee	Article/Process with relevant Indian Standard covered by the licence	Date of Cancellation
	No. CM/L-		cancelled/suspension	
October 2013 - NIL				
[No. CMD/13:13] M. SADASIVAM, Scientist 'F' & Head				

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 9 दिसम्बर, 2013

का० आ० 2739.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वी एस सी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 31 ऑफ 2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/12/2013 को प्राप्त हुआ था।

[सं० एल-20012/232/2001-आई आर (सी-I)]

एम० के० सिंह, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 9th December, 2013

S.O. 2739.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 31/2012) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BSC and their workmen, received by the Central Government on 09/12/2013.

[No. L-20012/232/2001-IR(C-I)]

M.K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD**

PRESENT : Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(I) (d) of the I.D. Act., 1947.

Reference No. 31 of 2012

PARTIES	:	S/Shri Bablu Sah & three Others Vs. M/s. BSC Company, Mr. Vidhyasagar Choudhary-Prop. Khaprajola, Pakur
APPEARANCES	:	
On behalf of the workman/Union	:	Mr. N.G. Arun, Rep. of the workman
On behalf of the Management	:	Mr. U.N. Lal, Ld. Advocate
State : JHARKHAND	Industry :	Coal

Dhanbad, Dated, the 8th May, 2013

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(I) (d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/232/2001. I.R.(C-I) dt. 10-08-2001.

SCHEDULE

"Whether the action of the management of M/s. B.S.C. company Khapra Jola, Pakur in not paying the full outstanding final dues to S/Shri Bablu Sah, Azgar Seikh, Sanjay Raj Banshi, Bablu Raj Banshi and Insan Seikh, is legal and justified? What relief the workmen are entitled to?"

2. Neither the Representative for the General Secretary, Quarry Worker's Union, Pakur appeared nor written statement of the worker's S/Shri Bablu Sah, Azgar Seikh, Sanjay Raj Banshi, Bablu Raj Banshi and Insan Seikh filed. Likewise, non-appeared for M/s. B.S.C. Company Rep.

by Mr. Vidyasagar Chaudhary, Prop., Khapra Jola, Pakur appeared.

Perused the case record. It is quite clear from it that three registered notices dt. 25.6.2012, 7.3.2013 and 17.4.2013 have been issued to the General Secretary of the Union concerned and the management of the company concerned on their respective addresses as noted in the Reference. Even then, neither the Union Representative concerned nor any of the aforesaid workmen responded to their notices. The Union Representative and the workmen concerned by their conduct appear to be quite uninterested in pursuing the case for its finality. Under these circumstances, the present Reference related to an issue of non-payment of final dues to the said workmen is closed as non existence of the Industrial Dispute.

Accordingly an order of non-existence of the Industrial Dispute is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 9 दिसम्बर, 2013

का० आ० 2740.-ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 195 अ०फ 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/12/2013 को प्राप्त हुआ था।

[सं० एल-20012/261/2001-आई आर (सी-I)]
एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 9th December, 2013

S.O.2740.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No 195/2001) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 09/12/2013.

[No. L-20012/261/2001-IR(C-I)]
M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/s10 (1) (d) (2A) of I.D. Act. 1947

Ref. No. 195 of 2001

Employer in relation to the management of Putki Colliery,
P.B. Area, M/s. BCCL,

AND

Their workmen.

PRESENT : Sri Ranjan Kumar Saran, Presiding Officer

APPEARANCES:

For the Employers : None

For the workman : Sri S.N. Goswami, Advocate

State : JHARKHAND Industry : Coal

Dated 13/8/2013

AWARD

By Order No. L-20012/261/20001-IR(CI), dated 13/09/2001, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of P.B. Area, BCCL in deputing as clay cartridge Makers to Smt. Panwa Kamin, wagon loader after completion of 20 years service and wages reduced is fair and justified? If not, to what relief of demand of category-5 is entitled? What order is expected in this regards?"

2. This case is received from the Ministry of labour on 5-10-2001. After notice both parties appeared, the Sponsoring Union/workman files their written statement on 26.11.2001. the workman filed documents as per list, examined himself and cross examined by the management. The claim of the workman is she was appointed as wagon loader and paid wages of category-IV and thereafter category-V. But subsequently her service condition was changed and she was allowed to work as clay cartridge maker.

3. The management has not specifically denied that the workman was not worked as wagon loader nor received pay of category-IV and thereafter category V.

4. The management has not filed any document nor adduce any evidence. Therefore the management to pay the workman, her dues of category V, as if she worked as wagon loader.

5. Considering the facts and circumstances of this case, I hold that the action of the management of P.B. Area, BCCL in deputing as clay cartridge Makers to Smt. Panwa Kamin, wagon loader after completion of 20 years service

and wages reduced is not fair and justified. Hence she is entitled to category-V.

This is my Award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 9 दिसम्बर, 2013

का० आ० 2741.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 264 ऑफ 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/12/2013 को प्राप्त हुआ था।

[सं० एल-20012/449/2001-आई आर (सी-I)]
एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 9th December, 2013

S.O.2741.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 264/2001) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. CCL and their workmen, received by the Central Government on 09-12-2013.

[No. L-20012/449/2001-IR(C-I)]
M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 DHANBAD

In the matter of reference U/s 10(1)(d) (2A) of I.D. Act. 1947

Ref. No. 264 of 2001

Employer in relation to the management of Dakra Colliery M/s. CCL.

AND

Their workmen.

APPEARANCES:

For the employers : None

For the Workman : Sri Trilochan Prasad, Concerned Workman.

State : JHARKHAND Industry : Coal

Dated 21-10-13

AWARD

By order No. L-20012/449/2001/IR(C-I) dt. 29.11.2001 the Central Government in the Ministry of Labour has, in exercise of power conferred by clause (d) of sub-section (I) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the union to provide employment on compassionate ground to Sri Trilochan Prasad, S/o Late Dukalu B.P. Helper as per the provision 9.4.2 of NCWA is proper and justified? If so, to what relief is the said dependent entitled?"

2. This Case is received from the Ministry on 06.12.2001. During the pendency of the case Sponsoring Union files a petition for withdrawing this reference. It is felt that the dispute between parties is resolved. Hence "No dispute" award is passed. communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 9 दिसम्बर, 2013

का० आ० 2742.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 95 ऑफ 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/12/2013 को प्राप्त हुआ था।

[सं० एल०-20012/497/2000-आई आर (सी-I)]
एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 9th December, 2013

S.O.2742.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 95/2001) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 09/12/2013.

[No. L-20012/497/2000-IR(C-I)]
M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

Reference: No. 95/2001

In the matter of reference U/s 10(1)(d)(2A) of I.D. Act, 1947.

PARTIES: Employer in relation to the management of E.J. Area, M/s. BCCL

AND

Their workmen.

PRESENT : Sri R.K. Saran, Presiding Officer.

APPEARANCES:

For the employers : Shri U.N. Lall, Advocate

For the workman : None

State : JHARKHAND Industry : Coal

Dated the 21st Oct. 2013

AWARD

By order No. L-20012/497/2000/IR (C-I) dated 29.03.2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Kaya BCCL, E.J. area ke Prabandh Tantra Dawara Sri Subodh Bauri miner/loader ko dated 2.1.96 se barkhast kiya jana vidhiyat nayayochit awaym sahi hai? Yadi nahi to karmkar kis rahat ke patara hai?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 10 दिसम्बर, 2013

का० आ० 2743.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एस सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय गोदावरीखन्नी के पंचाट (संदर्भ संख्या 03/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/12/2013 को प्राप्त हुआ था।

[सं० एल-22013/1/2013-आई आर (सी-II)]
बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 10th December, 2013

S.O. 2743.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award of the Indus.Tribunal-cum-Labour Court, Godavarikhani (IT/ID/03/2010) as shown in the Annexure in the industrial dispute between the employers in relation to the management of SCCL and their workmen, received by the Central Government on 10.12.2013.

[No. L-22013/1/2013-IR(C-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE**BEFORE THE LOK ADALAT BENCH FOR
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-CUM-VI ADDL. DISTRICT AND
SESSIONS COURT, GODAVARIKHANI**

Award U/s. 21 of the L.S.A. Act 1987 & Amendment Act, 1994 Saturday, the 20th day of July, 2013

PRESENT:

1. Sri G Venkata Krishnaiah, — Judicial Officer
B.A., B.L., Chairman,
Industrial Tribunal-cum-
Labour Court-Cum-VI
Addl. District & Sessions
Judge, Godavarikhani.
2. Sri D. Anjaiah, — Member (Advocate)
3. Sri Dr. G. Bhagavan Reddy, — Member
(Social Worker)

I.D. No. 3 of 2010

On the file of Industrial Tribunal-cum-Labour Court-cum-VI Addl. District and Sessions Court, Godavarikhani.

BETWEEN

Adicherla Chandraiah, S/o Venkati, Ex. General Mazdoor, E.C. No. 0984995, Aged about 40 years,
C/o Sri B. Amarender Rao, Advocate,
Raghupathinagar (Ganganagar),
P.O. Godavarikhani, Distt. Karimnagar (A.P.)Petitioner

AND

1. The Dy. General Manager,
Singareni Collieries Co. Ltd., GDK-6A Incline,
P.O. Godavarikhani, Distt. Karimnagar (A.P.).
2. The General Manager,
Singareni Collieries Co. Ltd., Ramagundam Area-II,
P.O. Godavarikhani, Distt. Karimnagar (A.P.)
3. The Chairman & Managing Director,
Singareni Collieries Company Ltd.,
P.O. Kothagudem, Distt: Khammam (A.P.).
.....Respondents.

CLAIM

This case is referred by the Industrial Tribunal-cum-Labour Court-cum-VI Addl. District and Sessions Court, Godavarkhani at the request of both parties and coming on 20-07-2013 for settlement before the LOK ADALAT in the presence of the Petitioner/Workman and his Counsel Sri B. Amarender Rao, and the Authorized Officer/Law Officer of the Respondent/Management Sri K.A. Rajendra Rao, Law Manager, Ramagundam Region.

After hearing and after considering the representation of both parties and in view of the settlement arrived between the parties and on the basis of the said settlement, passed the following:—

AWARD UNDER SECTION 21 OF THE L.S.A. ACT, 1987

The petitioner having agreed to the detailed proposals of the Management shown in Clause 1 (a) to (e) and 2, the contents of which are read over and explained to him in his language and agreed by him by signing the proposal sheet (enclosed to the Award), the Respondent is directed to take him back to duty forthwith as BADLI COAL FILLER.

2. This Award is final and binding on all the parties and no appeal shall lie to any court as per Sec. 21 (2) of the LSA Act, 1987.

3. Hence, the award is passed accordingly directing the respondent company to implement the award within 30 days from the date of publication of this award by the Government of India.

4. In agreement of the above, the parties/counsel have affixed their signatures/thumb impressions. In the presence of the members of this Lok Adalat Bench. LTI of A. Chandraiah.

Sd/-

Petitioner/Workman

Authorised Officer For The
Respondent Company
(K.A. RAJENDRA RAO)

Sd/-

Counsel For The Petitioner

Presiding Officer Of Lok Adalat

Sd/-

SRI D. ANJAIAH, Advocate,
LOKADALAT MEMBER.

Sd/-

SRI. DR. G. BHAGAVAN REDDY,
MEMBER (SOCIAL WORKER)

BEFORE THE LOK ADALAT BENCH FOR INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM-VI ADDL. DISTRICT AND SESSIONS COURT, GODAVARIKHANI

I.D. No. 3 of 2010

Proposals of the Management:

In order to have speedy and effective settlement of the cases before the Hon'ble Tribunal, Management of Singareni Collieries Company Limited agrees to put forth the following proposals:

1. Review of pending absenteeism cases filed before this Tribunal on or before 31-03-2011 subject to the following conditions:
 - a. The dismissed petitioner-workman should have put in at least 100 musters per year in any of the two years of the preceding 5 years of the dismissal.
 - b. Management agrees to offer fresh appointment as Badli Coal Filler without back wages and without continuity of services subject to medical fitness by Colliery Medical Officer.
 - c. Irrespective of earlier designations appointment will be offered as Badli Coal Filler afresh on coal filling where underground coal filling is available and need not be the same place where the petitioner - workman was last employed.
 - d. The petitioner-workman will be on observation for one year and has to put in minimum mandatory 20 musters every month, and reviewed once in every 3 months on Coal Filling only. In the event of any short fall of Attendance during the 3 months period his services will be terminated automatically without any further notice and enquiry.
 - e. Any forced absenteeism on account of mine accidents/natural disease, provided treatment is taken at Company Hospitals and remains in company sick rolls, will be deemed as attendance during the trial period.
2. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, days of rest, holidays etc., for appointment afresh.

The Hon'ble Members may kindly take note of the above and pass consent award under Section 21 of LSA Act, 1987.

Sd/-

Sd. illegible

Authorised Officer for
the Respondent Company
(K.A. RAJENDRA RAO)

नई दिल्ली, 10 दिसम्बर, 2013

का० आ० 2744.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एस सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, गोदावरीखन्नी के पंचाट (संदर्भ संख्या 26/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/12/2013 को प्राप्त हुआ था।

[सं० एल०-22013/1/2013-आई आर (सी-II)]
बी०एम० पटनायक, डेस्क अधिकारी

New Delhi, the 10th December, 2013

S.O.2744.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Indus. Tribunal-cum-Labour Court, Godavarikhani (IT/ID/ 26/2008) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 10.12.2013.

[No. L-22013/1/2013-IR(C-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE LOK ADALAT BENCH FOR INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM-VI ADDL. DISTRICT AND SESSIONS COURT, GODAVARIKHANI

Award u/s. 21 of the L.S.A. Act 1987 & Amendment Act,
1994 Saturday, the 20th day of July, 2013

PRESENT

1. Sri G Venkata Krishnaiah, — Judicial Officer
B.A., B.L.,
Chairman, Industrial Tribunal-
cum-Labour Court-Cum-VI
Addl. District & Sessions
Judge, Godavarikhani.
2. Sri D. Anjaiah, — Member (Advocate)
3. Sri Dr. G. Bhagavan Reddy, — Member (Social
Worker)

I.D. No. 26 of 2008

On the file of Industrial Tribunal-cum-Labour Court-cum- VI Addl. District and Sessions Court, Godavarikhani.

Between:—

Gadepu Srinivas, S/o Rajanarsu, Ex. Coal Filler,
E.C. No. 2108838, Aged about 36 years,
Qr. No. ST2-370, Bus Stand Colony, P.O. Godavarikhani,
Mandal Ramagundam, Dist. Karimnagar (A.P.)
.....Petitioner

AND

1. The Dy. General Manager,
Singareni Collieries Co. Ltd., RK-8 Incline,
P.O. Srirampur, Dist. Adilabad (A.P.).
2. The General Manager,
Singareni Collieries Co. Ltd., Srirampur Area,
P.O. Srirampur, Dist. Adilabad (A.P.)
3. The Chairman & Managing Director,
Singareni Collieries Company Ltd.,
P.O. Kothagudem, District: Khammam (A.P.).

.....Respondents.

CLAIM

This case is referred by the Industrial Tribunal-cum- Labour Court-cum-VI Addl. District and Sessions Court, Godavarikhani at the request of both parties and coming on 20-07-2013 for settlement before the Lok Adalat in the presence of the Petitioner/Workman and his Counsel Sri B. Amarender Rao, and the Authorized Officer/Law Officer of the Respondent/Management Sri P. Venkateswarlu, Personnel Manager, Srirampur Area.

After hearing and after considering the representation of both parties and in view of the settlement arrived between the parties and on the basis of the said settlement, passed the following:—

AWARD UNDER SECTION 21 OF THE L.S.A. ACT, 1987

The petitioner having agreed to the detailed proposals of the Management shown in Clause 1 (a) to (e) and 2, the contents of which are read over and explained to him in his language and agreed by him by signing the proposal sheet (enclosed to the Award), the Respondent is directed to take him back to duty forthwith as Badli Coal Filler.

2. This Award is final and binding on all the parties and no appeal shall lie to any court as per Sec. 21 (2) of the LSA Act, 1987.

3. Hence, the award is passed accordingly directing the respondent company to implement the award within 30 days from the date of publication of this award by the Government of India.

4. In agreement of the above, the parties/counsel have affixed their signatures/thumb impressions. In the presence of the members of this Lok Adalat Bench.

Sd/- G Srinivas

Petitioner/Workman

Sd/-

Authorised Officer for the
Respondent Company
(P. VENKATESHWARALU)

Sd/-

Counsel For The Petitioner

Presiding Officer of Lok Adalat

Sd/-

Sri D. Anjaiah, Advocate,
Lok Adalat Member

Sd/-

Sri Dr. G. Bhagavan Reddy,
Member (Social Worker)

**BEFORE THE LOK ADALAT BENCH FOR
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-CUM-VI ADDL. DISTRICT AND
SESSIONS COURT, GODAVARIKHANI**

I.D. No. 26 of 2008

PROPOSALS OF THE MANAGEMENT:

In order to have speedy and effective settlement of the cases before the Hon'ble Tribunal, Management of Singareni Collieries Company Limited agrees to put forth the following proposals:

1. Review of pending absenteeism cases filed before this Tribunal on or before 31-03-2011 subject to the following conditions:

- a. The dismissed petitioner-workman should have put in at least 100 musters per year in any of the two years of the preceding 5 years of the dismissal.
- b. Management agrees to offer fresh appointment as Badli Coal Filler without back wages and without continuity of services subject to medical fitness by Colliery Medical Officer.
- c. Irrespective of earlier designations appointment will be offered as Badli Coal Filler afresh on coal filling where underground coal filling is available and need not be the same place where the petitioner—workman was last employed.
- d. The petitioner—workman will be on observation for one year and has to put in minimum mandatory 20 musters every month, and reviewed once in every 3 months on Coal Filling only. In the event of any short fall of Attendance during the 3 months period his services will be terminated automatically without any further notice and enquiry.
- e. Any forced absenteeism on account of mine accidents/natural disease, provided treatment is taken at Company Hospitals and remains in company sick rolls, will be deemed as attendance during the trial period.

2. All other usual terms and conditions of appointment will be applicable *i.e.*, transfer, hours of work, days of rest, holidays etc., for appointment afresh.

The Hon'ble Members may kindly take note of the above and pass consent award under Section 21 of LSA Act, 1987.

Sd/-

Authorised Officer for the
Respondent Company
(P. VENKATESHWARALU)

नई दिल्ली, 10 दिसम्बर, 2013

का०आ० 2745.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एस सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम च्यायालय, गोदावरीखन्नी के पंचाट (संदर्भ संख्या 41/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/12/2013 को प्राप्त हुआ था।

[सं० एल-22013/1/2013-आई आर (सी-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 10th December, 2013

S.O.2745.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Indus.Tribunal-cum-Labour Court,, (Godavarikhani (IT/ID/ 41/2008) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 10.12.2013.

[No. L-22013/1/2013-IR(C-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE LOK ADALAT BENCH FOR
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-CUM-VI ADDL. DISTRICT AND
SESSIONS COURT, GODAVARIKHANI**

Award U/S. 21 Of The L.S.A. Act 1987 & Amendment
Act, 1994 Saturday, The 20th Day of July, 2013

PRESENT

1. Sri G Venkata Krishnaiah, — Judicial Officer
B.A., B.L.,
Chairman, Industrial Tribunal-
cum-Labour Court-Cum-VI
Addl. District & Sessions
Judge, Godavarikhani.
2. Sri D. Anjaiah, — Member (Advocate)
3. Sri Dr. G. Bhagavan Reddy — Member (Social
Worker)

I.D. No. 41 of 2008

On the file of Industrial Tribunal-cum-Labour Court-cum- VI Addl. District and Sessions Court, Godavarikhani.

BETWEEN

Gummula Venkati, S/o. Ramulu, Ex. Coal Filler,
E.C. No. 0903193, Aged about 43 years,
Village & Post Malyalapalli, Mandal Ramagundam,
Dist. Karimnagar (A.P.)

....Petitioner

AND

1. The Colliery Manager,
Singareni Collieries Co. Ltd.,
GDK-6B Incline, PO. Godavarikhani,
Dist. Karimnagar (A.P.)
2. The Chief General Manager,
Singareni Collieries Co. Ltd., Ramagundam Area-I,
PO. Godavarikhani, Dist. Karimnagar (A.P.)
3. The Chairman & Managing Director,
Singareni Collieries Company Ltd.,
P.O.: Kothagudem, District: Khammam (A.P.)

...Respondents.

CLAIM

This case is referred by the Industrial Tribunal-cum-Labour Court-cum-VI Addl. District and Sessions Court, Godavarikhani at the request of both parties and coming on 20-07-2013 for settlement before the LOK ADALAT in the presence of the Petitioner/Workman and his Counsel Smt. Ch. Shailaja, and the Authorized Officer/Law Officer of the Respondent/Management Sri K. Prakasha Babu, Dy. General Manager (Personnel), Ramagundam Area-I.

After hearing and after considering the representation of both parties and in view of the settlement arrived between the parties and on the basis of the said settlement, passed the following:—

**AWARD UNDER SECTION 21 OF THE
L.A.S. ACT, 1987**

The petitioner having agreed to the detailed proposals of the Management shown in Clause 1 (a) to (e) and 2, the contents of which are read over the explained to him in his language and agreed by him by signing the proposal sheet (enclosed to the Award), the Respondent is directed to take him back to duty forthwith as Badli Coal Filler.

2. This Award is final and binding on all the parties and no appeal shall lie to any court as per Sec. 21(2) of the LSAAct, 1987.

3. Hence, the award is passed accordingly directing the respondent company to implement the award within 30 days from the date of publication of this award by the Government of India.

4. In agreement of the above the parties/counsel have affixed their signatures/thumb impressions. In the presence of the members of this Lok Adalat Bench.

Sd/-

Sd/-
Petitioner/Workman

K. Prakash Babu

Authorised Officer for the
Respondent Company

Sd/-

Counsel for the Petitioner

Sd/-
Presiding Officer of Lok Adalat

Sd/-

Sri. D. Anjaiah, Advocate,
Lok Adalat Member.

Sd/-

Sri. Dr. G. Bhagavan Reddy,
Member (Social Worker)

**BEFORE THE LOK ADALAT BENCH FOR
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-CUM-VI ADDL. DISTRICT AND
SESSIONS COURT, GODAVARIKHANI**

I.D. NO. 41 OF 2008

Proposals of the Management:

In order to have speedy and effective settlement of the cases before the Hon'ble Tribunal, Management of Singareni Collieries Company Limited agrees to put forth the following proposals:

1. Review of pending absenteeism cases filed before this Tribunal on or before 31-03-2011 subject to the following conditions:
 - a. The dismissed petitioner-workman should have put in at least 100 musters per year in any of the two years of the preceding 5 years of the dismissal.
 - b. Management agrees to offer fresh appointment as Badli Coal Filler without back wages and without continuity of services subject to medical fitness by Colliery Medical Officer.
 - c. Irrespective of earlier designations appointment will be offered as Badli Coal Filler afresh on coal filling where underground coal filling is available and need not be the same place where the petition-workman was last employed.
 - d. The petitioner-workman will be on observation for one year and has to put in minimum mandatory 20 musters every month and reviewed once in every 3 months on Coal Filling only. In the event of any short fall of Attendance during the 3 months period his services will be terminated automatically without any further notice and enquiry.
 - e. Any forced absenteeism on account of mine accidents/natural disease, provided treatment is taken at Company Hospitals and remains in company sick rolls, will be deemed as attendance during the trial period.

2. All other usual terms and conditions of appointment will be applicable *i.e.*, transfer, hours of work, days of rest, holidays etc., for appointment afresh.

The Hon'ble Members may kindly take note of the above and pass consent award under Section 21 of LSA Act, 1987.

1. Sd/-ft	Sd/-
2. Sd/-ft	K. Prakash Babu
3. Sd/-ft	Authorised Officer for The Respondent Company

नई दिल्ली, 10 दिसंबर, 2013

का० आ० 2746.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एफ सी आई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 07/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/12/2013 को प्राप्त हुआ था।

[सं० एल-22012/336/2000-आई आर (सीएम-II)]
बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 10th December, 2013

S.O. 2746.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 07/2004 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of FCI and their workmen, received by the Central Government on 10.12.2013.

[No. L-22012/336/2000-IR(CM-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT:

DR. MANJU NIGAM, Presiding Officer

I.D. No. 07/2004161/2001

Ref. No. L-22012/336/2000-IR(CM-II) dated: 23.12.2003

BETWEEN

The State Secretary
Bhartiya Khadya Nigam Karmchari Sangh
5/6, Habibullah Estate
Lucknow-226001
(Espousing cause of Shri Pratap Singh)

AND

The Sr. Regional Manager
Food Corporation of India
5/6, Habibullah Estate
Lucknow-226001.

AWARD

1. By order No. L-40012/87/2001-IR(DU) dated: 11.09.2001 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the State Secretary, Bharitya Khadya Nigam Karmchari Sangh, 5/6 Habibullah Estate, Lucknow and the Sr. Regional Manager, Food Corporation of India, 5/6, Habibullah Estate, Lucknow for adjudication.

2. The reference under adjudication is:

"Whether the action of the management of Food Corporation of India in not granting selection grade from 1992 to Sh. Pratap Singh and imposing penalty *vide* order dated 7.7.1999 were legal and justified? If not, to what relief the workman is entitled to?"

3. The case of the workman's union, in brief, is that the workman, Pratap Singh was appointed on 03.05.71 as Assistant Grade-III (Depot) and was promoted in April, 1972 as Assistant Grade-II (d) and thereafter further promoted to the post of Assistant Grade-I (D) in December, 1980. It is alleged that the workman was entitled for selection grade after completion of 12 year's service in a grade *i.e.* after completing 12 year's service in Assistant Grade-I (D) in December, 1992; but the management did not grant the same to the workman. Further, it is submitted by the workman's union that the workman as issued a charge sheet dated 28.12.98 for alleged shortage/excess of stock in the stacks; and thereafter, was Penalized *vide* impugned order dated 07.7.99 without considering his reply. Accordingly, the workman's union has prayed that the management of FCI be directed to grant selection grade to the workman and set aside the impugned order dated 07.07.99.

4. The management of the FCI has disputed the claim of the workman by filing its written statement; wherein it has submitted that the workman was granted selection grade against the panel year 1993; and thereafter, the same was withdrawn due to recasting of seniority of AG I (D) as per court order. It is further submitted that the workman was charge sheeted for his misconduct and after conducting the formal inquiry and considering all the material on record *i.e.* evidence, inquiry report and reply of the charged official etc. the penalty order dated 07.07.99 was issued. It is submitted by the management that the impugned order dated 07.07.99 is in accordance with the principals of natural justice; and there is nothing illegal in it. Accordingly, the management of the FCI has prayed that the claim of the

workman's union be rejected without any relief to the workman concerned.

5. The workman's union has filed its rejoinder; wherein it has not brought any new fact apart from reiterating the averments already made by him in the statement of claim.

6. The workman has filed photocopy of certain documents *vide* list dated 04.02.2005, paper No. C-17; and in rebuttal the management has filed none. The workman's union examined the workman in support of its case on 08.12.2005; but the workman did not turn up for his cross-examination in spite of ample opportunities being given to him and ultimately it was presumed *vide* order dated 07.05.2007 that the workman does not want to get cross-examined and accordingly, 11.07.2007 was fixed for management's evidence. When the management of FCI did not produce any evidence on several dates, accordingly, it was presumed *vide* order dated 08.06.2009 that the management does not want to lead any evidence and the case was fixed for arguments on 10.08.2009. The parties filed their respective written arguments in support of their cases; but did not forward any oral argument are remaining absent for long time; accordingly, the case was reserved for award, keeping in view the long pendency of the case and reluctance of the parties to contest their case.

7. It was the case of the workman's union that the management of the FCI did not grant the selection grade to the workman after completion of 12 year's service in a grade; and further that it illegally penalized the workman by issuing impugned order dated 07.07.99 without complying with the settled principles of natural justice. The workman has filed photocopy of certain documents in support of his case; and has tried to prove them through the evidence of the workman; but since the workman did not turn up for his cross-examination, the evidence forwarded by the workman's union become futile. Thus, the version of the workman's union stands unproved.

8. Per contra, the management of the FCI has disputed the claim of the workman's union with pleading that the thought the selection was granted to the workman; but the same was withdrawn consequent to recasting of seniority of AG-I (D) as per directions of the Court. Further, it is also the case of the management that the impugned dated 07.07.99 was issued after due consideration of the reply of the workman and affording him all reasonable opportunity to defend himself; accordingly, there is no infirmity it and the same is liable to be upheld along the order dated 07.07.99.

9. It is well settled that if a party challenges the legality of order, the burden lies upon him to prove illegality of the order and if no evidence is produced by the party, invoking jurisdiction of the court, must fail. In the present case burden was on the workman's union to set out the grounds to

challenge the validity of the action of the management in granting the selection grade to the workman and that of order dated 07.07.99 of the management; whereby the workman was imposed penalty; and to prove that the action of the management in not granting him selection grade and issuing the impugned order dated 07.07.99 was illegal. It was the case of the workman's union that the workman was not granted selection grade and was penalized by the impugned order dated 07.07.99. This claim has been denied by the management; therefore, it was for the workman's union to lead evidence to show that alleged injustice was done to the workman by the management.

10. In M/s. Uptron Powertronics Employees' Union, Ghaziabad through its Secretary *vs.* Presiding Officer, Labour Court (II), Ghaziabad & others 2008 (118) FLR 1164, Hon'ble High Court relied upon the law settled by the Apex Court in Sanker Chakravarti *vs.* Britannia Biscuit Co. Ltd. 1979 (39) FLR 70 (SC), V.K. Raj Industries V. Labour Court and others 1979 (39) FLR 70 (SC), Airtech Private Limited *vs.* State of U.P. and others 1984 (49) FLR 38 and (Alld.) Meritech India Ltd. *vs.* State of U.P. and others 1996 (74) FLR 2004; wherein it was observed by the Apex Court:

"that in absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the Court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

11. In the present case the workman's union failed to prove its case as the workman did not turn up for his cross-examination; and accordingly his evidence could not taken into account. Mere pleadings are no substitute for proof. It was obligatory on the part of workman's union to come forward with the case that the workman had illegally been denied with the selection grade and the impugned order dated 07.07.99 was issued without observing the due procedures of natural justice; but the workman's union failed to forward any evidence in support of its claim, as its witness did not turn up for cross-examination before this Tribunal. There is no reliable material for recording findings that the alleged injustice was done to the workman or the action of the management of FCI in not granting selection grade from 1992 to the workman and imposing penalty *vide* order dated 07.07.99 was either illegal or unjustified.

12. Accordingly, the reference under adjudication is adjudicated against the workman's union; and as such, I come to the conclusion that the workman, Pratap Singh is not entitled to any of the relief(s) claimed.

13. Award as above.

Lucknow
1st October, 2013

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 10 दिसम्बर, 2013

का०आ० 2747.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ए आई एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 06/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/12/2013 को प्राप्त हुआ था।

[सं० एल-22012/177/2011-आईआर (सी-II)
बी०एम० पटनायक, डेस्क अधिकारी

New Delhi, the 10th December, 2013

S.O. 2747.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref.06/2012 of the Cent.Govt. Indus. Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of Atlanta Infrastructure Ltd and their workmen, received by the Central Government on 10/12/2013.

[No. L-22012/177/2011-IR(C-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT: Shri J. Srivastava,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 6/2012

Date of Passing Order-31st January, 2013

BETWEEN

M/s. Atlanta Infrastructure Ltd.,
101, Shree Ambasanti Chambers, Opp: Hotel
Leela, Andheri Kurla Road, Andheri East,
Mumbai-400 059.

.... Ist Party-Management.

AND

Shri Mahendra Samal,
At. Chandrasekharpur, Po, Neulapoi,
PS: Gandia, Dhenkanal.

... 2nd Party-Workman.

APPEARANCES:

None	For the Ist Party-Management.
None	For the 2nd Party-Workman.

ORDER

Case taken up today, None of the parties is present. The 2nd Party-workman has to file the statement of claim. One year's time has elapsed and several notices to the 2nd Party-workman were issued through ordinary as well as registered post, but he has not responded to any of the notices and has not filed any statement of claim. Hence it is no use to keep the case pending for long. The 2nd Party-workman has either settled the dispute with the management amicably or he may not be interested in prosecuting the case any further. Hence no dispute award is to be passed in the case. Accordingly no dispute award is passed. The reference is answered accordingly.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 10 दिसम्बर, 2013

का०आ० 2748.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एस सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, गोदावरीखन्नी के पंचाट (संदर्भ संख्या 39/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/12/2013 को प्राप्त हुआ था।

[सं० एल-22013/1/2013-आईआर (सी-II)]
बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 10th December, 2013

S.O.2748.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Indus.Tribunal-cum-Labour Court, Godavarikhani (IT/ID/39/2011) as shown in the Annexure, in the Industrial Dispute between the employees in relation to the management SCCL and their workmen, which was received by the Central Government on 10/12/2013.

[No. L-22013/1/2013-IR(C-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM-VI ADDL. DISTRICT & SESSIONS COURT AT GODAVARIKHANI.

PRESENT: Sri G. V. Krishnaiah, B.A., B.L.,

Chairman-cum-Presiding Officer.

INDUSTRIAL DISPUTE No. 39 of 2011

Tuesday, the 10th day of September, 2013

BETWEEN

Zadi Bheemaiah, S/o. Zadi Lasmaiah,
aged about 47 years, Occ: Ex. Coal Filler,
R/o. Gollapalli Mandal Nennela Post,

Mylaram, Dist., Adilabad.

— Petitioner.

AND

- (1) The Colliery Manager,
Vth Incline, Ramakrishnapur,
Dist. Adilabad.
- (2) The General Manager,
Srirampur Projects, Srirampur,
Post: Srirampur, Dist. Adilabad.
- (3) The Managing Director,
SC Company Ltd., Administration,
Kothagudem, Dist. Khammam. — Respondents.

This case coming before me for final hearing in the presence of Sri S. Bhagavantha Rao, Advocate for the petitioner and of Sri D. Krishna Murthy, Advocate, for the Respondents; and having been heard and having stood over for consideration till this day, the Court delivered the following:—

AWARD

This is a petition filed U/Sec.2-A(2) of the Industrial Disputes Act, 1947 praying this court to set aside the dismissal order dt. 15-02-2003 and to direct the respondent No. 2 to reinstate the petitioner into service with continuity of service, all other consequential attendant benefits and full back wages.

2. The brief facts of the case are as follows:—

The petitioner is appointed as an employee on 1-3-1987 as a Badli Filler by GPRao, Managing Director, SC company Ltd., Kothagudem. The petitioner discharged his duties to the fullest satisfaction of superior till upto removal from service and the services of petitioner are governed by various standing orders of company. The petitioner put in 16 years of service in the company and the petitioner was while working with respondent No. 1, was affected with Neuro problem and the company declared the petitioner as unfit for further service and terminated the service of petitioner from company.

3. The respondent without conducting any enquiry and without issuing any charge sheet and charge memo, terminated the services of the petitioner *vide* proc., No. RKP/PKI/P/2001/602, dt. 15-2-2003 by Colliery Manager, RK.5 and this is nothing but termination simplicitor and not with termination stigma and the respondent completely contravened the provisions of Sec. 25 F of I.D. Act.

4. The petitioner was not treated properly in company hospital and the petitioner has become mentally retrograded and derailed and for his recovery the petitioner underwent treatment in Singareni Hospitals Karimnagar and Sanjeevini Diagnostics and also NIMS,

Hyderabad and after taking treatment in all hospitals from 2003 to 2010, the petitioner has become perfectly well and the respondent never provided any monthly maintenance to his wife and victimized the petitioner under the guise of termination. Therefore the petitioner prays this court to set aside the dismissal order dt. 15-02-2003 and to direct the respondent No. 2 to reinstate the petitioner into service with continuity of service, all other consequential attendant benefits and full back wages.

5. The respondent No. 2 filed his counter denying all the allegations in the petition putting the petitioner to strict proof of all those allegations. The Ist respondent filed a memo adopting the counter filed by R-2.

6. The brief averments of counter of R-2 are that the respondents' company is a Government Company incorporated under the provisions of Company's Act. 1956 for carrying out the business of winning and selling the coal and since the coal mining industry is a central subject, the appropriate Government for this respondent/management is Central Government. As per Sec. 7(A)(1) of I.D. Act, the appropriate Government may by notification in the official gazette constitutes one or more Industrial Tribunals for the adjudication of Industrial Disputes relating to any matter whether specified in the 2nd or 3rd schedule and for performing such other functions as may be assigned to them under this Act. And that the Central Government established an Industrial Tribunal-cum-Labour Court at Hyderabad from 29-12-2000 for adjudication of Industrial Disputes and the petitioner ought to have approached the said Tribunal for the redressal of grievances if any. But he conveniently avoided to file his petition before the Tribunal established by the Central Government for the reasons best known to him and the petition is not maintainable under law and the same may be dismissed on this ground alone. The dispute is barred by limitation as per Sec. 2-A of the Industrial Disputes Amendment Act, 2010. The petitioner was dismissed from the services of the company *vide* letter dt. 13-2-2003 w.e.f., 19-2-2003. The petitioner kept quiet for all these years and filed this I.D., after a lapse of 8 years which is barred by limitation. As such, the ID is liable to be dismissed in limine and the court may decide the limitation proceedings as a preliminary issue before proceeding with the trial.

7. The petitioner was appointed as Badli Filler on 19-4-1987 and later promoted as Coal Filler from 1-7-1990. The petitioner is required to put in (190) minimum musters per year. The petitioner was not attending for his duties regularly and as he had put up (98) musters during 2001, he was issued charge sheet dt. 25-2-2002 for habitual absenteeism. He was given counseling on 16-4-2002 to improve his attendance. As he failed to improve his attendance, enquiry notice was issued. The petitioner submitted his explanation to the charge sheet stating that

due to domestic problems ill health of his wife and subsequent ill-health for himself, he failed to attend for his duties without any leave and assured the company that he will be regular in future. As the explanation is not satisfactory, enquiry notice dt. 18-9-2002 was issued advising him to attend the enquiry on 1-10-2002. As he failed to attend the enquiry on 1-10-2002 inspite of receipt of the notice, he was advised to attend the enquiry on 12-11-2002. The petitioner attended the enquiry on 12-11-2002, he was given fair opportunity to participate in the enquiry and to cross examine the management witness but the petitioner did not cross examine the management witness and stated that he was absent for duty on the dates mentioned in the charge sheet due to health problems. He admitted that he was absent without any leave. The petitioner did not report at respondent company hospital for his ill-health nor produced any documentary proof during the enquiry, for the charge sheet period. Copy of the enquiry report was sent to the petitioner *vide* letter dt. 21-12-2002 and the petitioner submitted his representation dt. 31-12-2002 admitting his absents and requested to take him for duty as he was absent due to ill-health. The charges leveled against the petitioner are proved and as there are no extenuating circumstances to award lesser punishment than dismissal, the petitioner was dismissed *vide* letter dt. 13-2-2003 w.e.f., 19-2-2003.

8. The respondent company is doing the business of winning and selling of coal by employing about 68,000 persons. If the employees habitually abstained/absconded from their duties, the required production/planned production targets will not be achieved resulting in huge losses to the respondents' company by way of penalties from the customers for non supply of required quantity of coal as per fuel supply agreement with them. To avoid this contingencies, the respondent company incorporated the absenteeism as one of the acts of misconduct which is approved by the Central Government in accordance with the procedure laid down in the Industrial Employment (Standing orders) Act, 1946. The petitioner failed to exhaust the appeal remedy and filed the present petition before this court. The petitioner is concealing all the above facts filed this petition for reinstatement into employment with back wages, with continuity of service etc., Therefore prays to dismiss the petition in the ends of justice. Hence, the respondent company suffers irreparable loss.

9. Ex. M-1 to Ex. M-12 are marked on behalf of the respondents and no documents are marked on behalf of the petitioner.

10. Heard both sides. Perused the material papers on record.

11. Both parties filed written arguments.

12. Now the point for consideration is:—

(1) Whether the present petition is maintainable before

this Tribunal?

(2) To what extent the alleged misconduct on the part of the petitioner was made out in the domestic enquiry and whether the punishment of dismissal of the petitioner is justified?"

13. The petitioner filed Memo on 14-11-2011 praying this court to decide the dispute U/Sec. 11-A of Industrial Disputes Act. As such, there is no need to decide the validity of domestic enquiry in this case as the counsel for the petitioner conceded the same and requested this court to decide the matter U/Sec. 11-A of the Industrial Disputes Act.

14. POINT NO. 1:

It is the case of the respondents that the respondents company incorporated under the provisions of Company's Act 1956 for carrying out the business and selling the coal and since the coal mining industry is a Central subject, the appropriate Government for this respondents/management is Central Government and that as per Sec. 7A(1) of I.D. Act, the appropriate Government by its notification the official gazette constitute one or more industrial tribunals for adjudication of industrial disputes relating to any matter whether specified in the 2nd or 3rd schedule and for performing such other functions as may be assigned to them under this Act. The respondents further submitted in their counter the Central Government established an industrial Tribunal-cum-Labour Court at Hyderabad on 29-12-2000 for adjudication of Industrial disputes and the petitioner ought to have approached the said tribunal for redressal of grievances if any. The dispute is barred by limitation as per Sec. 2-A of the Industrial Disputes Amendment Act, 2010. The petitioner was dismissed from the services of the company *vide* letter dt. 13-2-2003 w.e.f., 19-2-2003. The petitioner kept quiet for all these years and filed this I.D., after a lapse of 8 years which is barred by limitation. As such, the ID is liable to be dismissed in limini and the court may decide the limitation proceedings as a preliminary issue before proceeding with the trial.

15. "Appropriate Government is described U/ Sec.2-A of the I.D. Act, 1947". According to Sec. 2-A(1) of the above Act, the Appropriate Government by notification in the official gazette constitutes one or more Industrial Tribunals for adjudication of Industrial Disputes relating to any matter whether specified in 2nd or 3rd schedule. So, according to the above two provisions of law, this Tribunal is established. Admittedly, the petition filed by the petitioner is an Industrial Dispute.

16. In a case reported in 1998(5) ALD-16 (D.B.) in a writ petition between U. Chinnappa Vrs., Cotton Corporation of India and others; the Division Bench of our High Court held—"We will assume that in so far as the dismissed or retrenched workman is able to approach the Labour Court

straight-away, the power of the Central Government to make a reference of the dispute may be whittled down protanto and in that sense there is a conflict or repugnancy with sub-section (2) of Section 2(A) and Section 10(1) r/w sub-section (1) of Section 2-A and Section 3 of the Act. Even then, the Presidential assent given under Article 254(2) makes the State law prevail over the provisions of the Central law to the extent of repugnancy". It also further observed Industrial Disputes Act, 1947, Section 2-A(2) is not confined to workmen employed in Industrial undertakings of State Government and it applies also to workmen employed in Industrial undertakings of State Government and it applies also to workmen engaged in Central Government undertakings.

17. If the plea of the respondent is considered in the light of the above case law, it falls to the ground, because, Section 2-A(2) of I.D. Act, 1947 applies both to the workmen employed in Industrial undertakings of State Government and also to the workmen engaged in Central Government undertakings.

18. In other words, it can be said it is for the workman to approach U/Sec.2A(2) of I.D. Act, either to the Industrial Tribunals having Central jurisdiction and also the Tribunals having State jurisdiction. The petitioner was dismissed from service by order dt. 13-2-2003 i.e., much prior to the Amendment Act, 2010 came into force. This amendment has no retrospective effect. The petitioner's case is not covered by the Amendment Act, as such the I.D., is maintainable before this court.

19. In view of the above, I hold that this Tribunal is having jurisdiction to decide the industrial dispute on hand and the petition filed by the petitioner is maintainable. The point is answered accordingly.

20. POINT NO. 2:

Since the validity of domestic enquiry is not disputed by the petitioner, now it is to be seen to what extent the alleged misconduct on the part of the petitioner was made out in the domestic enquiry and whether the punishment of dismissal of the petitioner is justified.

21. The petitioner has not adduced any oral or documentary evidence. On behalf of the respondents, Ex.M-1 to Ex.M-12 are marked. Ex.M-1 is charge sheet issued to the petitioner. In this charge sheet, the period of absence of the petitioner from January, 2001 to December, 2001 were furnished in a tabular form and the petitioner was asked to submit his written explanation to the charge. Ex.M-2 is the undertaking given by the petitioner after counselling. He assured the respondent that he will put in not less than (20) musters in every month from 1-4-2002 to 30-6-2002. Ex.M-3 is the explanation submitted by the petitioner to the charge sheet. In this, he admitted that he absented for duty as mentioned in the charge sheet and it is correct. Due to

domestic problems only, he has not attended to duty on the dates mentioned in the charge sheet. He prayed to excuse him for this time and consider his case sympathetically. The enquiry proceedings are marked as Ex.M-7. Sri P. Mallaiah, Office Superintendent (PO) and P. Prasada Rao, Clerk were examined on behalf of the respondent. They deposed in support of the charges. The petitioner did not avail the opportunity of cross examine the above management witnesses. Before the enquiry officer the petitioner deposed that he absented to duty during the year 2001 on the days mentioned in the charge sheet without any leave. He deposed that because of ill-health he absented for duty. But the petitioner has not filed any documentary evidence to show that he was imparted any medical treatment during the charge sheet period. The enquiry report is marked as Ex.M-8. The enquiry officer concluded that in view of the evidence of the management witnesses and in view of the voluntary admission of the petitioner, the charge leveled against the petitioner stands proved beyond reasonable doubt. The representation of the petitioner on the enquiry report is marked as Ex.M-11. In this also the petitioner admitted that the charge leveled against him in the charge sheet are proved in the enquiry. He pleaded that due to sudden change of his ill-health and his wife's health problems, he could not attend to duty. He assured that he will be very careful in future in his duties and he will not repeat the same. The order of dismissal is marked as Ex.M-12.

22. From the statements of the departmental witnesses before the enquiry officer, is very clear that the petitioner has not put in required musters during the year 2001. He has not filed any piece of document to substantiate his ill-health and of his wife. So, from the evidence produced before the enquiry officer, it is clearly established that the petitioner without obtaining prior sanction of leave or without any reasonable cause absented for his duties and put up only 98 musters attendance during the year 2001 and that he was in the habit of absenting from duties frequently. But to consider the punishment awarded to the petitioner whether it is proportionate to the charges proved against the petitioner or not, admittedly there are no documents filed by the respondent to show that the petitioner is habituated to absent to his duties repeatedly. Further the attendance particulars of the petitioner during the previous years from 1998 to 2001 are as under:—

(1) 1998	— 160 musters.
(2) 1999	— 215 musters.
(3) 2000	— 191 musters.
(4) 2001	— 98 musters.

So, it can be rightly said this is the first time in the year 2001, the petitioner was not regular in his duties. The respondent has not filed the S.R., of the petitioner to show

that the petitioner was inflicted with any previous punishments. In these circumstances, I am of the considered opinion, that dismissal of the petitioner from service for the first misconduct, is not proportionate to the charge proved against him for the first time in his service. Therefore, I hold that dismissal of the petitioner from service is not justified.

23. In the light of above foregoing discussion, I hold that the charge framed against the petitioner is proved and the punishment of dismissing the petitioner from service is not justified and not in proportionate to the charge proved against him. Therefore, I am of the considered opinion that the punishment of dismissal needs modification to that of reinstatement as Coal Filler “afresh”, so as to do justice to the petitioner since this is the first irregularity/misconduct committed by him. The point is answered accordingly.

24. In the result, the order of dismissal dt. 13-02-2003 is set aside and the respondents are directed to reinstate the petitioner into service as a “Fresh” Coal Filler. The petitioner is not entitled to any back wages. The past service rendered by the petitioner from 1987 to 2003 shall be counted only for the purpose of gratuity and other retirement benefits.

Typed to my dictation, corrected and pronounced by me in open Court, on this the 10th day of September, 2013.

GV. KRISHNAIAH,
Chairman-cum-Presiding Officer

Appendix of Evidence

Witnesses Examined

For workman:—

-Nil-

For Management:—

-Nil-

EXHIBITS

For workman:—

-Nil-

For Management:—

Ex.M-1 Dt. 25-02-2002	Office copy of charge sheet with Ack,
Ex.M-2 Dt. —	Undertaking letter given by the petitioner after counseling.
Ex.M-3 Dt. 06-05-2002	Reply to the charge sheet
Ex.M-4 Dt. 18-09-2002	Enquiry notice O/c
Ex.M-5 Dt. 18-10-2002	Enquiry notice O/c
Ex.M-6 Dt. 05-11-2002	Ack. card
Ex.M-7 Dt. 12-11-2002	Enquiry proceedings
Ex.M-8 Dt. 27-11-2002	Enquiry report.
Ex.M-9 Dt. 21-12-2002	Show cause notice O/c
Ex.M-10 Dt. 26-12-2002	Ack., to the show cause notice.
Ex.M-11 Dt. 31-12-2002	Representation of the petitioner

Ex.M-12 Dt. 13-02-2003 Dismissal order O/c

नई दिल्ली, 10 दिसम्बर, 2013

का०आ० 2749.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एनएमएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 65/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/12/2013 को प्राप्त हुआ था।

[सं० एल-42012/192/2001-आई आर (सीएम-II)]
बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 10th December, 2013

S.O. 2749.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No 65/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial disputes between the management of National Metallurgical Laboratory, and their workmen, received by the Central Government on 10/12/2013.

[No. L-42012/192/2001-IR(CM-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD IN THE MATTER OF A REFERENCE U/S 10(1)(D) (2A) OF I.D. ACT, 1947.

Ref. No. 65 of 2002

Employers in relation to the management of National Metallurgical Laboratory, Jamshedpur

AND

Their workmen.

PRESENT: — Sri Ranjan Kumar Saran,
Presiding Officer

APPEARANCES:

For the Employers — None

For the workman — Sri D. Mukherjee, Advocate

State—Jharkhand Industry—Science & Technology

Dated 30.10.2013

AWARD

By Order No. L-442012/192/2001-IR (CM-II), dated 10/06/2002, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of National Metallurgical Laboratory, Jamshedpur in terminating Sh. A.K. De instead of regularising his service is legal and justified? If not, to what relief he is entitled to?”

2. The case is received from the Ministry of Labour on 21.06.2002. After receipt of reference, both parties are noticed, the workman files their written statement on 06.08.2002. The management files their written statement on 20.12.2002. The workman filed his affidavit evidence, which remained unchallenged.

3. The short point involved in the case is as to whether the workman was a continuous workman under the management, and as to whether has completed 240 days continuous, as a workman to be regularised in his post.

4. The workman submitted, that though he worked continuously the management showing paper work of intermittent *i.e.* break up service, illegally terminated him.

5. On the other hand from the documents filed on behalf of the management, it is seen that, the appointment was purely temporary *i.e.* purely contractual, after each six months, there is break of service and fresh appointment is made after two to three days, after each term of appointment. Even accepting the submission and affidavit that the workman has been working continuously almost all the documents filed by the management is against the workman.

6. Even the appointment letter of the workman *vide* letter No. 8-NML(25)/93-E-1 dated 10.09.96 does not support him. It is pertinent to extract the terms of appointment in verbiage for appreciation.

Sub: Offer for engagement as DTP operator.

“With reference to your request dated 26.06.96, you are hereby intimated that the Director, National Metallurgical Laboratory, Jamshedpur has been pleased to offer you on contract basis to work on a purely temporary basis as a DTP operator on consolidated amount of Rs. 3000/- (Rupees three thousand only) per month on the following terms and condition:

1. It is not an offer of appointment in CSIR temporary or otherwise. It is a contractual engagement on purely temporary basis. It would, therefore, not confer and right/claim implicit or explicit for your consideration

for regularisation/absorption against any CSIR post.

2. Your engagement on contract is for a specific period of six months which may be extended or curtailed at the discretion of the Director, National Metallurgical Laboratory.
3. The contact of engagement can be terminated at any time without assigning any reason thereof.

Any matter not specifically stated herein shall be determined by the Director National Metallurgical Laboratory, Jamshedpur, whose decision shall be final and binding on both the parties to the contract.

If you are willing to accept the engagement on these terms and conditions, you may please communicate your acceptance within a week from the date of receipt of this latter while intimating possible date of your reporting for duty.

Sd/-
(A. MAJUMDAR)
Controller of Administration

7. In view of the above state of affairs and facts and circumstances of this case it is seen that the workman is a purely temporary workman posted on short term basis. In the result hold that the action of the management of National Metallurgical Laboratory, Jamshedpur in terminating Shri A.K. De instead of regularizing his service is legal and justified. The workman can not be regularised in his present post. Hence the workman is not entitled to get any relief.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 10 दिसम्बर, 2013

कांआ० 2750.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं 2, धनबाद के पंचाट (संदर्भ संख्या 29/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/12/2013 को प्राप्त हुआ था।

[सं० एल-20012/186/2003-आई आर (सी-I)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 10th December, 2013

S.O. 2750.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.29/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial disputes between the management of M/s. BCCL, and their workmen, received by the Central Government on 10/12/2013.

[No. L-20012/186/2003-IR(C-I)]
M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT: Shri Kishori Ram, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

Reference No. 29 of 2004.

PARTIES:

The Vice President,
Mazdoor Sangathan Samittee, Angrpathar Colliery,
Dhanbad

Vs.

Gen. Manager, Kusunda Area of M/s. BCCL,
Kusunda, Dhanbad

APPEARANCES:

On behalf of the workman/ Union:	Mr. S.N. Goswami, Ld. Advocate
On behalf of the Management: State: JHARKHAND	Mr. U.N. Lal, Ld. Advocate Industry: Coal

Dated, Dhanbad, the 30th Oct., 2013.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/186/2003-I.R.(C-I) dt. 14.01.2004

SCHEDULE

“Whether not giving an employment on compassionate ground by the management of Kusunda Area, BCCL to Shri Santosh Chauhan, the dependent son of Ex-workman Smt. Dulia Kamin as provision of NCWA-VI is just and legal. If not, then what relief is the applicant entitled to?”

2. The case of petitioner Santosh Chanhan, the dependent son of Ex-workman Dulia Kamin in the written statement filed in the reference raised by the Mazdoor Sangathan Samiti, Angrpathar Colliery is that the deceased workman Dulia Kamin was a permanent employee as wagon loader of Kusunda Colliery under Kudunda Area-VI of M/s. BCCL, having Pers. No. 0291 3747 and CMF A/c No. DHN/17/157, but she died in harness on 18.08.1998 during her employment, leaving the petitioner as her only son, who had submitted his application in the prescribed Form on 22.09.1999 along with other documents for his employment as per clause 10.4.2. of the NCWA-II. After

consideration of the matter, his application was kept on a Live Roster as per provision under clause 9.5.0(iii) of N.C.W.A.-VI related to providing an employment to the dependent at the maturity of 18 years. The petitioner as quite a dependent son of the workman had put several representations before the management for his employment on compassionate ground to tide over his crisis of the family, but the management delayed it. Besides there is no time schedule for the application. Rather procedure is the dependent to be considered for employment should be physically fit, not more than 35 years and suitable for employment. The petitioner, the dependent son of the deceased employee, is aged about 20 years, quite physically fit and suitable for employment in place of his deceased mother in the colliery as per the provision of NCWA-I to V with retrospective effect 1.7.1996. He is legally entitled to the employment. But the management without considering the provision under clause 9.3.2. read with clause 9.4.0 (iii) of NCWA-VI regretted the case of the petitioner. The action of the management in not providing him employment on his maturity of 18 years is illegal and against the principle of natural justice.

3. The petitioner in his rejoinder (not filed by the Union concerned) has categorically denied the allegations of the O.P./Management, stating that despite several representations by the Union as well as the workman, but of no effect, the Industrial Dispute was raised consideration for it. As per the Service Records of the Management she died on 19.08.1998. The petitioner is the only dependent son of the workman. He was a minor at the time of his mother’s demise in harness.

4. Whereas with specific denials, the case of the O.P. management is that the industrial dispute was raised by the Vice President, Mazdoor Sangathan Samittee before the A.L.C.(C), Dhanbad-V. Smt. Dulia Kamin was working in Kusunda Colliery, and died on 19.08.1998, while her son petitioner Santosh Chauhan was a minor below 15 years old, so he was not entitled to get an employment as per provision of the NCWA, then prevalent at the relevant time. After due consideration of the matter by the management, the employment of the petitioner was regretted as per management’s letter dt 11.1.2002 as communicated through the letter dt. 23/26.9.2002 of the Project Officer, Kusunda. The I.D. on fully explaining the aforesaid facts in the conciliation proceeding ended in failure, and then F.O.C. as per the report dt. 28.07.2003 was sent by the Conciliation Officer to the Government. The provision was prevalent at that point of time for providing an employment to the male dependent having age of 15 years or above or attaining 18 years; his name was being kept on a Live Roster for providing an employment on attaining the age of 18 years; but in the instant case, the claimant was below the age of 15 years, so his case was regretted by the competent authority as per policy of the company; thus he is not entitled to any relief.

5. The O.P./Management in its rejoinder specifically denying the allegations of the petitioner has alleged that there has been no delay on the part of the management as soon as the application was filed by the petitioner.

FINDING WITH REASONS

6. In the instant reference, WWI Santosh Chauhan, the petitioner himself as per affidavited chief and MWI Ghanshyam Pd. Sinha, the Welfare Inspector, Kusunda Area, for the O.P./Management have been respectively examined.

Mr. S.N. Goswami, the Learned Counsel for the petitioner argues that late Dulia Kamin was undisputedly a permanent woman employee working as Shavel Operator under Kusunda Area, and she died on 19.08.1998 in harness; when the petitioner, her dependent son, submitted the Application Form with required documents to the management for his employment as per provision clause 9.3.2. of the NCWA-VI, the management refused his employment on the ground of his being below 15 years at the time of mother's death. Mr. Goswami, the Ld. Counsel for the father further submits that petitioner Santosh Chauhan as WWI has established his date of birth as 01.01.1982 as per version of his mother according to which he was 16 years on 19.08.1998. This plea of Mr. Goswami being not based on pleading is unacceptable. The petitioner appears to be himself uncertain what his age was at the time of his mother's death in harness. He has not come with his clean hands to get justice over the matter of his compassionate employment.

Whereas the contention of Mr. U.N. Lal, the Learned Advocate for the O.P./Management as per the statement of MWI Ghanshyam Pd. Sinha, the Welfare Inspector, for the O.P./Management is that the petitioner was a Minor below 15 years as per the provision of NCWA in vogue at the time of his mother's death on 19.08.1998, his application for employment was regretted by the Competent Authority as also communicated to him as per the official letters (Ext. 2 series), and the same fact was stated in the reply (Ext.M3) in the I.D. No. 1/2003 before the A.L.C®, Dhanbad. But this argument of Mr. Lal is also untenable, for the reason that the NCWA-VI effective from 01.07.1996 which covers the death of the petitioner's mother in harness at the relevant date postulates under its cause 9.5.0.(iii) as such:

"If no employment has been offered and the male dependent of the concerned worker is 12 years and above in age, he will be kept on a live roster and would be provided employment commensurate with his skill and qualifications when he attains the age of 18 years..." is also accepted by the management witness.

But in the instant case, there is complete failure of the petitioner to establish his exact age at the time of his Mother's death, he can not be held successful for the claim

of his employment on compassionate ground.

In result, it is hereby:

ORDERED

That the Award be and the same is passed that the action of the management of Kusunda Area of M/s. BCCL in not giving an employment Shri Santosh Chauhan, the dependent son of Ex-workman Dulia Kamin as per provision of the NCWA VI is just and legal. The applicant is not entitled to any relief.

KISHORI RAM, Presiding Officer.

नई दिल्ली, 10 दिसम्बर, 2013

का०आ० 2751.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/श्रम न्यायालय नं 2, धनबाद के पंचाट (संदर्भ संख्या 299/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/12/2013 को प्राप्त हुआ था।

[सं० एल-20012/313/1995-आई आर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 10th December, 2013

S.O..2751.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 299/1999) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. CCL and their workmen, received by the Central Government on 10/12/2013.

[No. L-20012/313/1995-IR(C-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

PRESENT: Shri Kishori Ram, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 299 of 1999.

PARTIES:

Sri Baijnath Sao, Ex.-Employee of Giddi, Mandu, Hazaribagh Vs Project Officer, Gidi 'C' Colliery of M/s CCL, Hazaribag.

APPEARANCES:

On behalf of the Mr. S.N. Goswami Ld.
workmen/Union: Advocate

On behalf of the Management:

Mr. D.K. Verma, Ld. Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 18th Oct., 2013

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/313/95-IR(C-I) dt. 04.10.1999

SCHEDULE

“Whether the action of the management of Gidi ‘C’ Colliery in not allowing of Shri Baijnath Sao, workman, to rejoin the Service on the basis of the date of birth claimed by him is just and fair? If not, to what relief the workman is entitled and from what date?”

2. The case of workman Baijnath Sao is that he was a permanent workman at Gidi ‘C’ Colliery since 01.07.1959. At the time of his appointment, though he had declared his age as 18.08.1939, the management illegally and arbitrarily recorded his age as 18.08.1932. His elder brother Sri Karju Sao, also an employee of CCL had his date of birth as 3.7.1938. At the issuance of a Service Excerpt by the Management on 6.6.1987, it bore his date of birth (DOB) as 18.08.1932 and just at the side also written as 18.08.1939. The workman returned the service except saying his DOBs as 18.08.1939, which was also assured by the management to maintain it in all his service records. Meanwhile, the workman represented to the management for providing an employment to his dependent son, as he was too unable to work efficiently. On his reference to the Medical Board as per letter dt. 30.05.1992 of the management, when he twice, thrice as per the management letters dt. 29.08.1992 and 24.09.92 respectively reappeared before it for determination of his age and Medical Certificate, but neither the Medical Board took cognizance of it nor any report of it was given to him. Meanwhile the management suddenly issued him a letter proposing for his superannuation w.e.f. 30.10.1993. The workman immediately seriously protested it as illegal termination of his service in the garb of superannuation. The age of his elder brother, the voter list and the records as brought to the notice of the management show his factual date of birth as 18.08.1939 also. The Civil suit filed by him on the wrong advice of the workman was at last dismissed ultra vires its jurisdiction. Consequent upon the industrial dispute referred by the ALC®, Hazaribagh having been unreasonably rejected by the Appropriate government, the ID. as per the order of the Hon’ble High Court, Patna in the CWJC 621/1980(R) referred for an adjudication. The action of the management in letting the workman join his duty on the basis of his birth date and in terminating his service in the garb of superannuation are illegal, unjustified and against the rules of natural justice.

No rejoinder could be filed on behalf of the workman.

3. Whereas the contra case of the O.P./Management with specific denials is that the present reference is unmaintainable, as no employer-employee relationship exists between the management and the workman, and it is not an industrial dispute u/s 2K of the I.D. Act, 1947. The workman working as Mazdoor Cat.II at Giddi “C” colliery on his superannuation retired from the service of the Company w.e.f. 31.10.1993. Thereafter he was given his all retirement benefits on his application. After his retirement, the industrial dispute regarding his birth date was raised in the year 1995. His date of birth as 31.10.1933 has been and it was recorded as 18th August, 1932 as per the Service record. At the issuance of the Service Excerpt to the workman in the year 1987, he raised a dispute to it, alleging his date of birth (DOB) as 18.08.1939 without any documentary proof. As per the Implementation Instruction (I.I.) No. 76, he was referred to the Area Medical Board/Age Committee, which assessed his age 55 years as on 31.10.1988 after his medical examination, and it was informed on 22.02.1989. His date of birth was corrected in place of 18.08.1932 in the Service excerpt. Thus his retirement accordingly w.e.f. 31.10.1993 is legal and justified.

4. The O.P./Managements in its rejoinder has categorically, denied all the allegations of the workman and stated that the management after due consideration had referred the workman to the Apex Medical Board, which assessed his above noted age, and it was duly communicated to him.

FINDINGS WITH REASONS

5. In the case, WWI Dhani Saw, son of the deceased workman Baijnath Sao on affidavit statement on behalf of the Union, and MWI Janardhan Singh, Sr. Clerk of Giddy Colliery of the O.P./Management have been respectively examined.

Shri Dhani Sao, the son of the workman due to his death on 03.12.2010 during the pendency of the case, has been substituted in his place as per the Order No. 26 dt. 21.09.2011 of the Tribunal.

Mr. S.N. Goswami, the Learned Counsel for the petitioner as per his written argument submits that at the time of initial appointment of Late workman Baijnath Sao on 01.07.1959, his date of birth (DOB) was recorded as 18.08.1939 at the time of his joining, but the management illegally arbitrarily recorded his date of birth 18.08.1932 instead of his said Date of birth; the copy of the Service Excerpt supplied to the workman, an illiterate person, on 6.6.1987 mentioned his date of birth as 18.08.1932, as well as 18.08.1939 written at the side; then the workman requested for necessary correction of it, at his representation, the management after considering it set up the Apex Medical Board before whom the workman

twice appeared for assessment of his date of birth, which could not be, nor any report of it was supplied to him. Further argued on his behalf that as per the Notice/Letter of the management, the age of the workman was allegedly determined at 55 years as on 31.10.1988, the birth date of the workman was unjustly corrected as 31.10.1933 and thereafter, the issuance of Notice of retirement to him w.e.f. 31.10.1993 being prematurely was illegal and unfair; but unfortunately, the workman breathed his last on 03.12.2010 during the pendency of the case, though his claim was justified.

4. Whereas the contention of Mr. D.K. Verma, the Learned Counsel for the O.P./Management is that the reference itself is unmaintainable, as it has been filed after the natural retirement of the workman; moreover in case of variation in the service records about the workman's date of birth in the present reference, the appearance of the workman before the Apex Medical Board constituted for the assessment of his age as per the Implementation Instruction No. 76 of the NCWA is indisputable; and accordingly on the assessment of his age 55 years as on 31.10.1988 by the Medical Board as per the Management's later dt. 22.2.1989 which appeared to be communicated to the workman (Ex. M.3), his Date of Birth came to 31.10.1933, and the date of birth of the workman was corrected in place of previous Date of birth 18.8.1932 in his Service Sheet (Ext. M.1), and accordingly to which, his superannuation from service on 3.10.1993 was just as per the Notice of retirement dt. 22.4.1993 of the Management (Ext. M.4).

5. On the perusal of the materials on the case, I find in the face of Receipt of the Medical Report by the workman under his LTI as communicated by the Management's letter dt. 22.2.1989 about his medically determined age, the allegation of Late deceased workman not to have got it is untenable. His superannuation on 31.10.1993 was quite just and proper as per his corrected date of birth 31.10.1993 in his Service Sheet. The argument of Mr. Goswami, Learned Advocate for the petitioner seems not plausible. Hence, it is hereby, in the terms of the reference:

ORDERED

That the award be and the same is passed that the action of the management of "Gidi C" Colliery in not allowing Late Baijnath Sao, the workman to rejoin the service on the basis of date of birth claimed by him is quite just and fair. Hence, the Late workman, if were alive, would not have any entitlement to any relief.

KISHORI RAM, Presiding Officer

नई दिल्ली, 10 दिसम्बर, 2013

का० आ० 2752.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के

प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 31/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/12/2013 को प्राप्त हुआ था।

[सं० एल-20012/38/2008-आई आर (सीएम-I)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 10th December, 2013

S.O. 2752.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2008) of the Cent.Govt. Indus.Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Sijua Area of M/s. BCCL and their workmen, received by the Central Government on 10/12/2013.

[No. L-20012/38/2008-IR(CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT : SHRI KISHORI RAM, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 31 of 2008

PARTIES :

The Joint General Secretary,
Bahujan Mazdoor Union, Dhansar, Dhanbad

Vs.

Gen. Manager, Sijua Area, Dhanbad

APPEARANCES :

On behalf of the workman/Union:
Mr. R.R. Ram, Ld. Advocate

On behalf of the Management:
Mr. D.K. Verma, Ld. Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 4th Sept., 2013

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/38/2008-IR (CM-I) dt. 28.05.2008.

SCHEDULE

"Whether the action of the Management of Loyabad Coke Plant of M/s BCCL in denying subsistence allowance to Sh. Yadunandan Dusadh, Security Guard for the period from 5.9.2004 to 12.9.2004 and from 21.6.2004 to 4.7.2004, is legal and justified?
(ii) To what relief is the concerned workman entitled?"

2. Mr. R.R. Ram, the Ld. Advocate-cum-Joint General Secretary Bahujan Mazdoor Union, Dhansar, Dhanbad (Jharkhand) and Mr. D.K. Verma, the Ld. Advocate for the management are present, but no rejoinder nor documents filed on behalf of the Union/workman.

By filing a petition on behalf of the Union/workman Yadunandan Dusadh, the Security Guard, Mr. R.R. Ram, the Ld. Advocate for the Union/workman submits for closure of the case and passing 'No Award Dispute' on the ground that the workman has already retired from his service, so he does not want to contest it further. A copy of it also served upon Mr. D.K. Verma, Ld. Advocate for the O.P./Management.

In view of the aforesaid petition, I find the present reference related to an issue about a denial to the subsistence allowance to the workman as Security Guard for the period from 5.9.2004 to 12.9.2004 and from 21.6.2004 to 4.7.2004 is closed as 'No Industrial Dispute', because the workman has retired already, and is no longer interested in pursuing the case. Hence, it is passed an order as non existence of the Industrial Dispute.

KISHORI RAM, Presiding Officer

नई दिल्ली, 10 दिसम्बर, 2013

का०आ० 2753.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 03/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/12/2013 को प्राप्त हुआ था।

[सं० एल-20012/96/2006-आई आर (सीएम-I)]
एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 10th December, 2013

S.O. 2753.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2 Dhanbad as shown in the Annexure, in the industrial dispute between the management of Kusunda Area of M/s. BCCL, and their workmen, received by the Central Government on 10/12/2013.

[No. L-20012/96/2006-IR(CM-I)]

M.K.SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD**

PRESENT : SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947.

Reference No. 03 of 2007

PARTIES: Employer in relation to the management of Kusunda Area of M/s. BCCL and their workmen.

APPEARANCES: On behalf of the workman Mr. S.C. Gaur, Ld. Adv. on behalf of the Management: Mr. S.N. Ghosh, Ld. Adv.

State : Jharkhand

Industry: Coal

Dhanbad, Dated the 14th April, 2013

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/96/2006-IR(CM-I) dt. 24.01.2007.

SCHEDULE

"Whether the action of the management of Dhansar Industry Colliery of M/s. BCCL in not providing employment to Smt. Sanju Devi dependent wife of Late Satyandra Paswan, justified & legal? If not, to what relief is the said dependent of the workman entitled?"

2. The case of petitioner Shrimati Sanju Devi as sponsored by the National Colliery Workers' Congress, Chiragora, Dhanbad, is that she is the dependent wife of Late workman Satyandra Paswan who was appointed a permanent employee by M/s. B.C.C.L. at Dhansar Industry Colliery on 2.1.1997. But he expired on 31.12.2001 for his illness at the BCCL's Central Hospital, Dhanbad by leaving his aforesaid wife alone to mourn. After collecting all the relevant papers from different authorities of District Administration she filed the paper to the M/s BCCL for her self employment, but the management concerned on 8.5.2005 regretted her employment as baseless and not in conformity to the employment provision of the National Coal Wages Agreement (NCWA), that the NCWA stipulates employment to one dependant of the deceased employed within 30 days of filling such papers to the Coal Company. The petitioner for employment was hardly 23 years while filing of her all relevant documents, being fully dependant and living with her husband deceased at the time of his death. She is entitled to self employment under the provision of the NCWA, and the employer's action in denying her employment is illegal and unjustified.

3. The Union concerned in its rejoinder for the petitioner has categorically denied the allegation of the Opp./Management, and stated that the N.C.W.A. has no provision for limitation or anything belated for filing papers for employment. Moreover the paper is of 6.1.09 contrasted with the demise of the employee is 2001 would be clarified by the Court ruling. BCCL is no authority over it. Nothing was communicated. The High Court of Jharkhand and the Hon'ble Supreme Court quashed the circular of M/s Coal India issued by CCL regarding the limitation of 18 months for seeking employment. The allegation of existence of two wives, out of them one Ram Rati Devi of the deceased workman was never raised during conciliation nor in the terms of the reference, so it is fabricated.

The both circulars dated 6.1.2004 and 06.01.2009 of the Company as referred are self contradicting.

4. Whereas the Opp./Management in its written statement has admitted the status of the deceased workman Satyendra Paswan as Ex-SDL Mazdoor and a permanent employee of Dhansar Colliery since his appointment on 9.4.1997 and he expired on 31.12.2001. But petitioner Shrimati Sanju Devi submitted the proposal for employment on compassionate ground on 5.1.2005 after 3 years from the date of his death. The spirit of providing of employment on compassionate ground is to provide immediate relief to the family of the deceased. In view of the fact, in order to avoid hardship and harassment, the competent authority of B.C.C.L. as per the order No. BCCL/PA-VI/2004/ 1195-1270 dated 6.1.2009 has determined the time limit that no application for compassionate employment will be entertainable beyond 18 months from the date of deceased employee. Hence the Competent Authority regretted her application for compassionate employment being belated was unentertainable. The management can not wait for a long period for giving employment on a later date contrary to the existing circular/instruction of the Company. At this point 10 years have already elapsed. It is also alleged that the scrutiny of the application revealed that late deceased workmen had two wives, namely petitioner Sanju and Shrimati Ramrati Devi, as such it created legal complications in matter of employment.

5. In its rejoinder, the Opp./Management has specifically denied, the allegations of the petitioner, and stated that as per the provision of NCWA-II implemented under social Security of an employee out of the tri-partite agreement between the management and Unions, the claimant should file an application for employment before the management within 2(two) months from the date of death of the deceased, but in this case, it was filed after 3 years against the NCWA provision. Further, it is alleged that the Coal Companies under the NCWA should make their own procedure for implementation of the provision, and accordingly the management as per the said order dt. 6.1.2004 fixed a time limit of 18 months for such applications but beyond which it is unentertainable. Therefore the claim of the petitioner was rightly rejected by the Competent Authority as a belate case.

Finding with Reasoning

6. In this reference, WWI Sanju Devi, the petitioner herself for the Union concerned and MWI Ghanshyam Pd. Sinha, the Welfare Inspector for the management have been examined.

In this reference, these is indisputable fact about the death of workman Satyandra Paswan in harness on 31.12.2001 as per the Original Certificate of his death issued by the Birth-Death Registrar Seraidhela Gram Panchayat (Ext. W.1); he was appointed on 9.4.1997 and S.DL. Labourer at Dhansar Colliery (of M/s BCCL). His wife petitioner Sanju Devi is illiterate who had applied on 5.1.2005 to the O.P./Management for her employment in place of her husband (her application Ext. M. 1). But her application for employment was refused as per the copy of the OP/Management's letter (dt. 25/31.1.05-Ext. W.2). The OP/Management had submitted its reply (7/8.2.2006-Ext. W.3) in the Industrial Dispute for her employment before the ALC(C). The petitioner (WWI) claimed to have submitted her complete application along with the relevant documents to the management, as it took time in preparation of the documents for it. But the Opp./Management as per the statement fo MWI Ghanshyam Prasad Sinha the Welfare Inspector, has to contend that since the petitioner had filed her petition for her employment after four years of the death of her husband which was beyond 18 months limit for it by a dependent as per the circular of the management dt. 6.1.2004 (Ext. M.2 with objection). The plea of the OP/Management about the existence of two wives, namely Sanju Devi (petitioner) and second Ramrati Devi is untenable, as it is contrary to the earlier reply of the Management (Ext. M. 3) which did not wishper about any second wife of the deceased workman.

7. Mr. S.C. Gaur, the Learned Advocate/Union Representative for the petitioner submits that in respect of Labour and Industrial Laws and Clause 9.5.0 of the National Coal Wage Agreement the rejection of claim on the ground that elder brother (Step-brother) of petitioner was already employed in respondent-Company, but any circular/order can not be unilaterally issued by employer presenting any period of limitation or putting any candidate for obtaining a compassionate appointment by a dependant of regular employee who died in harness, which is not there is settlement/agreement so the impugned order of rejection can not be sustained and accordingly, it was quashed, and application for it was allowed, as also held in the case of Sakaldeo Munda Vs. Central Coalfields Ltd. reported in 2009(4) J.L.J.R. 704(SB) (Relied upon 2007(4) J.L.J.R. (SC) 144). The cited ruling related to its fact that elder step brother of petitioner was given employment on compassionate ground under the scheme of NCWA against the death of his mother who herself was a regular employee of CCL whereas petitioner applied for appointment on compassionate ground against death of his father who being a regular employee died in harness.

8. Whereas Mr. S.N. Ghosh, the Learned Advocate for the Opp./Management has contended that as the petitioner has filed her application in the year 2005 for compassionate employment after three/four years, the action of the Opp./Management in rejecting her application as per the policy of the BCCL in its letter dt. 6/24.1.2004 (Ext.M.2) was justified; and she can not claim for compassionate employment as a matter of right. Relying upon the rulings (to be noted later on). Mr. Ghosh, the Learned Advocate for Opp./Management has pleaded that in consideration of application for compassionate appointment date of death of an employee is an important factor to be taken into consideration, employer is within its power to lay down a policy for compassionate appointment and it has to strictly adhere to such policy and Rule applicable on date of death of an employee need to be followed [Para 12 & 13 (134)FLR 1014 (F.B. of Punjab & Haryana (H.C.)] [Relied on 2011(4) SCC 209, Bhawan Pd. Sankar Vs. Union of India & Ors.]. The Hon'ble High Court held policy applicable on the date of death need to be involved to provide immediate relief as held by the Hon'ble Apex Court in the case of Bhawani Pd. Sankar that the scheme in operation at the time of incapacitation of the employee would be applicable and not the scheme framed subsequently.

Secondly that in respect of appointment under die in harness scheme even after 1984 scheme came into force, application was filed after long lapse of time, applicant, therefore, had no right to ask for an appointment, as there was also on record that there was a ban on direct recruitment under Die-in-harness Scheme as evidenced by Office Memorandum dt.24th July, 2001 which itself provided for a claim from the Government in the Deptt. of Personnel and Admn. Reforms (Pers. Div.) and the Hon'ble Apex Court held the direction of Single Bench decision to the appellant to give appointment unjustified in the case of State of Manipur Vs. Md. Rajaodin 2003(99)FLR 337(SC)(DB).

Thirdly, that the claimed appointment of the petitioner at his majority at belated stage after death of his father in harness in Revenue Deptt. was not accepted as held by the Hon'ble High Court, Allahabad in the case of Bhola Yadav Vs. State of U.P. & Ors., 2003 (98) FLR 264(Para 7). It is settled law that compassionate appointment under dying in harness Rules should not be given after long years of the death of the father [Relied upon 1994(68) FLR 1191(SC), Umesh Kr. Nagpal Vs. State of Haryana etc.]

Further Mr. Ghosh submits that similar view was taken by Hon'ble Apex Court in the case of N.H.P. Corpn. Vs. Nanak Chand reported in 2004 (103) FLR 707 SC (DB) wherein setting aside the direction of Hon'ble High Court concerned to for compassionate appointment of petitioner respondent who at his majority, had applied for after the death of his father on 10.12.1976, it was held the judgement of High Court unsustainable and appointment on

compassionate ground is not a source of recruitment but merely an exception to the requirement regarding appointment being made an open invitation of application on merits. (Paras 10 & 15)

Fourthly, that if the family of the deceased employee could not tide over the financial burden on account of untimely death of the deceased employee in the year 1994, after a long lapse of eight years, i.e., in 2001, it could not be stated that the family members of the deceased employee still continue to be in financial destitution, under the scheme, the compassionate appointment could not be sought as a matter of right or as a matter of course but to tide over the sudden financial crisis as held in the case of Liagath Ali Vs. Union of India & Ors, 2003 (97) FLR 93(A.P.H.C.)(DB).

Fifthly, that in the case of Anil Kr. Yadav Vs. Union of India & Ors, 2004(100) FLR 72 Alld. HC (SB), application of petitioner who applied on 2.1.2002 for compassionate appointment after death of his father in harness on 6.12.2001 was rejected on ground of non-existence of any financial distress in it; moreover, it can be claimed as a matter of right (Para 9). Lastly it is also submitted for the Opp./Management that purpose of each appointment is to mitigate the hardship; Financial condition of family of deceased has to be examined; such employment is not a matter of course and not a vested right; and it should not unduly interfere with right of other persons rather it is to be provided strictly in accordance with Rules and petitioner had not fulfilled the requisite formalities; therefore, appointment was rightly refused by respondents as held by the Hon'ble High Court in the case Rajesh Sharma Vs. State of Rajasthan & Ors reported in 2003 (99) FLR 533 (SB), likewise rejection of application made by wife after three years for compassionate appointment as contrasted with only one year provided under the Scheme. Moreover appointment in compassionate ground is provided to tide away the immediate financial crisis in the case of (Smt.) Saroj Vs. Union Bank of India, Alld. H.C. (SB).

It is an acknowledged fact that every ratio decidendi acts upon the facts of certain case.

9. After hearing the arguments of both the parties and on perusal of the material available on the case record, I find the following facts:

- (i) In the present reference, the workman died in harness on 31.12.2001, leaving his dependant wife petitioner Sanju Devi alone who is quite illiterate.
- (ii) The petitioner had though submitted her application with all relevant papers after the due attestation before the Authority concerned on 05.09.2003 as evident from the photocopy of her petition (Ext.M.3), due to some defects therein, so after corrections, she finally submitted her application on 5.1.2005 with all relevant documents to the Opp./ Management for her compassionate employment.

(iii) It is remarkable to note that the BCCL's Management's Circular No. 195 1270 dt. 24.1.2004 (Ext. M.2) presenting the 18 months time limit for application for compassionate employment came into force *w.e.f.* 14.1.2004 after 2 years 12 days of the death of deceased workman. But the illiterate petitioner widow had submitted her first application dt. 2.9.03 for it on 5th Sept., 2003 as admitted by the Opp./Management as evident from the Ext. M.3 itself (photocopy of her application filed by the Opp./Management). So the aforesaid scheme dt. 24.1.2004 of the Opp./Management (Ext. M.2) not in operation at the time of the death of the workman would not be applicable in view of the decision of the Hon'ble Apex Court of India in the leading case of Bhawani Pd. Sankar, 2011(4) SCC 209.

(iv) In lack of proof of any scheme of the Opp./Management relevant on 31.12.01 the date of death of the workman, the Opp./Management is bound by the clause 9.5.0.(ii) of NCWA-VI as operative in NCWA-VII clause 9.3.0 at the relevant time to provide the illiterate widow petitioner an employment on compassionate ground, as the petitioner despite her illiteracy appears to have been continuously in her best effort in her due reasonable representation for it, at relevant time, thought the Opp./Management appeared lack lustre in proper disposal of her such representation.

10. Under these circumstances, it is responded in the terms of the reference, and accordingly it is hereby

Ordered

Let the Award be and the same is passed that the action of the management of Dhansar/Industry Colliery of M/s. BCCL in not providing employment to Smt. Sanju Devi, dependant wife of Late Satyandra Paswan is totally unjustified and illegal. Therefore, petitioner dependant of the workman is entitled to her employment on compassionate ground under clause 9.5.0(ii) of NCWA-VI as operative in NCWA VII Clause 9.3.0 at the relevant time.

KISHORI RAM, Presiding Officer

नई दिल्ली, 10 दिसम्बर, 2013

का० आ० 2754.- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स कोल इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 06/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/12/2013 को प्राप्त हुआ था।

[सं० एल-22012/38/2008-आई आर (सीएम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 10th December, 2013

S.O. 2754.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 06/2008 of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Guwahati as shown in the Annexure, in the industrial dispute between the management of M/s Coal India Limited and their workmen, received by the Central Government on 10/12/2013.

[No. L-22012/38/2008-IR(CM-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

PRESENT: Shri L.C. Dey, M.A., LL.B.,
Presiding Officer,
CGIT-cum-Labour Court, Guwahati,

In the matter of an Industrial Dispute between:

The Management of Coal India Ltd., Tinsukia, Assam.

Vs.

Their Workman Shri Niranjan Debnath

Ref. Case No. 06 of 2008

APPEARANCES

For the Management : Mr. M.Z. Ahmed, Sr. Advocate
Mr. A.M. Dutta, Advocate

For the Workman : Mr. A Dasgupta, Advocate
Mr. K.M. Haloi, Advocate

Date of Award : 21.11.2013

AWARD

1. This Reference is arising out of an Industrial dispute existed between the Management of Coal India Limited and their workman Shri Niranjan Debnath, which was referred to by the Ministry of Labour, Government of India *vide* their Order No. L-22012/38/2008-IR(CM-II); Dated: 30.06.2008, under Section 10(1)(D) of Industrial Dispute Act. The Schedule of the Reference is as under:

SCHEDULE

“Whether the action of the management of M/s Coal India Limited in dismissing Shri Niranjan Debnath *w.e.f.* 05.01.2005 is legal and justified? To what relief is the concerned workman entitled?”

2. On receipt of this order from the Ministry this Reference case has been registered and notices were served upon both the parties for filing their respective claim statements/written statements along with relevant documents before the Tribunal with direction to both the

parties to exchange their respective copies of Claim Statement/Written Statement and documents between them. Accordingly both the parties appeared and contested the proceeding filing their respective claim statement/written statement.

3. The case of the workman Shri Niranjan Devnath, in nutshell, is that he was an employee of North Eastern Coalfields under the Coal India Limited and served as General Mazdoor being Employee No. 971. On 17.6.2004 a charge sheet was issued against the workman in connection with a Disciplinary Proceeding on the charge of habitual late attendance without sufficient cause, and the said charge sheet was framed under Clause 26.24 and 26.30 of the Standing Order. After issuing the charge sheet dated 17.6.2004, the Management appointed Shri S.P. Chaki as Enquiry Officer and exparte enquiry was held on 20.7.2004. The Management examined their witness Shri A.C. Dey and next date was fixed on 15.9.2004 and the workman was informed about this date and accordingly the workman appeared before the Enquiry Officer on that day. But the workman was not offered any opportunity by the Enquiry Officer to cross-examine the Management witness whose statement was recorded on 20.7.2004. Then the Enquiry Officer himself examined the workman and asked the Presenting Officer to cross-examine him. The Enquiry Officer submitted his report holding that the charge has been established in the enquiry, and on the basis of the report of the Enquiry Officer the workman was discharged from his duty by the Management on 5.01.2005.

The workman alleged that he was discharged from his duties in gross violation of natural justice as he was not even offered with an opportunity to submit his reply against the charge sheet nor he was given the opportunity to defend his case through his co-worker. As the workman is an illiterate person the proceeding was recorded in English for which he did not understand what had happened in the enquiry. Had the workman been afforded with the adequate opportunity he would have been able to establish his innocence. The workman contended that due to unavoidable circumstances beyond the range of control, he could not perform his duties, but he has been illegally discharged and he is entitled to be reinstated with full backwages. Hence, the workman prayed for passing award in his favour directing the Management to reinstate the workman with full backwages and/or to pass any order as deem fit.

On receipt of the W.S. filed by the Management the workman submitted Addl. W.S./claim statement, stating *inter-alia*, that he was an honest employee and at no point of time he was habitual absentee nor did he commit any misconduct at any point of time. He also mentioned that the Management never served any caution letter to him and the charges brought against him are all false, concocted and have no leg to stand before the eye of law. He stated

that the Departmental Enquiry was proceeded ex parte on 20.07.2004 in his absence and on that day the Presenting Officer was examined behind the charged employees. Thus the Management, due to not giving any opportunity to defend the workman and to cross-examine the Presenting Officer as well as by not providing any opportunity to submit representation of the workman against the findings of the Enquiry Proceeding, has committed miscarriage of justice by discharging the workman from his service on the basis of the findings of the said departmental enquiry which is required to be quashed and set aside.

4. The Management, on the other hand, submitted their W.S. stating that the Coal India Ltd. is a Government of India undertaking duly registered under the Indian Companies Act, 1956 with its Registered Office at Kolkata is engaged in the business of Coal mining in various parts of the country, and the North Eastern Coalfields is a subsidiary unit of Coal India Limited. The workman Sri Niranjan Devnath was appointed as daily rated employee and engaged as General Mazdoor in the North Eastern Coal Fields at Margharita on 3.8.91 being employee No. 971. The workman Niranjan Devnath was a habitual absentee and he had remained absent on a number of occasions, more particularly from the year 1998, which is shown below:—

1998.....	69 days.
1999.....	142 days.
2000.....	123 days.
2001.....	211 days.
2002.....	234 days.
2003.....	272 days.
2004.....	145 days up to 17.6.2004.

The Management issued a number of caution letters to the workman and offered him numerous opportunities to improve his attendance but he never paid heed to it, rather continued to remain absent from his duty, and thereby committed misconduct as per the Standing Order of North Eastern Coal Fields as described in the Schedule of the Coal Mines (Nationalisation) Act, 1973. After giving him sufficient opportunities the Management issued a charge sheet being No. C/9/443/C dated 16.04.2001 against the workman and conducted a *prima facie* enquiry, whereby the workman was found guilty of misconduct under the Provision of the Standing Order as mentioned above. Accordingly the Management by way of a letter dated 30.10.01 issued to the workman imposing the punishment such as:—

- (i) Stoppage of 3 increments without cumulative effect under Clause 27.1(c), and

(ii) Posted the workman under Administration Department to work as General Mazdoor in Dehing Guest House.

Even after imposition of the aforesaid punishment the attendance of the workman was not improved. Then the Management issued another charge sheet No. 13/504/Adm. dated 25.07.2002 and conducted an enquiry in which the Management found the workman guilty of misconduct and again the Management by way of issuing a letter dated 20.1.2003 against the workman decided to impose punishment as mentioned below:

“Demotion from category-II to Category-I under clause 27.1(f) of the Standing Orders with initial basic pay”. But the workman miserably failed to respond to the above punishment and remained continuously absent from his work with effect from 13.3.2003 without sanctioned leave or sufficient cause and hence, the Management, having no other alternative issued another charge sheet dated 17.6.2004 whereby the workman was charged with misconduct as per clause 26.24 and 26.30 of the Standing Order. The workman was also directed to submit his written explanation within 3 days from the date of the receipt of the aforesaid charge sheet dated 13.3.2004 asking him as to why disciplinary action should not be taken against him for the charges framed against him failing which appropriate disciplinary action would be taken. Inspite of the aforesaid charge sheet the workman did not care to improve his attendance, while the Management, proposed to conduct a departmental enquiry against the charged employee and appointed Sri S.P. Chaki, Superintending Engineer, Civil as Enquiry Officer and C. Momin, Deputy Personnel Manager as Management representative by way of letter dated 17.7.2004 informing the workman that the enquiry was proposed to be held on 20.7.2004. The workman was informed to be present in the office of the Superintending Engineer, Civil at Margharita on 20.7.2004 along with all the relevant documents and he was allowed to appoint a co-worker and to produce witness/witnesses in support of his defence. On 20.7.2004 the workman did not appear in the departmental enquiry while the statement of the Presenting Officer was recorded and thereafter the Management proposed to hold the said departmental enquiry on 30.7.2004 at the same venue, but lateron the same was cancelled owing to some unavoidable circumstances informing the workman by a letter dated 9.9.2004 that the departmental enquiry would be held on 15.9.2004 at 11 A.M. at the same venue. The workman was further informed that he would be given every opportunity to defend his case and on failure without any acceptable reasons, the Enquiry would be held ex-parte and the Management would take any action as deemed fit. Accordingly the departmental enquiry was held on 15.9.2004 in presence of the Enquiry Officer and the Presenting Officer and on that day the workman was present but he could not produce any authentic document/evidence in support of his defence.

After considering all the pros and cons of the matter the Enquiry Officer decided that the charges framed against the workman proved beyond all reasonable doubt. Thereafter, the Management, considering the gravity of offence, by an order dated 5.1.2005 discharged the workman from the service under Clause-27.1(g) of the Standing Order applicable to the workman.

Further contention of the Management is that the workman was given ample opportunity to defend his case right from the year 1998 by issuing numerous letters for improving his attendance but the workman miserably failed to respond the same and remained absent continuously from time to time which is a serious offence as per Standing Orders as aforesaid, the conduct of the workman shows that he is not at all interested to work for the Management which in any way, can not support an unproductive employee as that of the workman who has become a burden on the part of Management. Hence, the Management had rightly issued the impugned order and as such there can be no reason for this Tribunal to interfere with the said order and the claim of the workman is liable to be rejected. The Management further reiterated that the impugned order of discharge was passed as per law complying all the requirements of law and had also conducted the departmental enquiry in accordance with the law as well as the principles of natural justice and as the workman has miserably failed to make out a case warranting interference of this Tribunal, the workman is not entitled to any relief as claimed.

The Management further, by filing additional Written Statement, assailed all the allegations raised by the workman in his claim statement and the additional claim statement. The Management mentioned that the workman was issued sufficient opportunities to submit the reply against the charge sheet as well as the enquiry report; and that the workman is not an illiterate as his service record shows that he read upto Class-VIII standard. Moreover, during the course of the enquiry dated 15.9.2004 the statement were read over and translated to him into the language best understood by the workman before obtaining his signature over them and as such the plea taken by the workman ought to be rejected.

5. Both the parties adduced evidence and submitted documents in support of their respective cases. I have perused the entire C.R. along with the evidence on record and also heard argument from both the sides at length.

6. The workman Niranjan Debnath in his evidence stated that he was employee of Coal India Ltd. and served as Carpenter helper. In the year 1990 he was declared as medically unfit and removed from the service on medical ground; and thereafter, in accordance with the existing rules in force he was appointed as General Mazdoor in category-I initially. Accordingly he was entrusted with the unskilled job like carpenter helper, mason helper, cleaning

of jungles, painter helper etc. In course of time he was upgraded as General Mazdoor Grade-II and he discharged his duty to the satisfaction of all concerned. Due to his ill health sometimes he could not perform his duties and he always submitted sick certificate issued by the approved Doctor of Coal India Ltd. but the Chief Engineer (Civil) under whom he was working, refused to accept the sick certificate submitted by him on several occasions and thereby joining on these occasions considerably delayed, and he had to request his officer to consider his case and after long persuasion he had to join his duties. In the month of June, 2002 he could not perform his duties for few days due to illness and in fact, he was absent for 7 to 10 days in that month. After his recovery he reported for duties to the Executive Engineer (Civil) at Margherita along with sick certificate issued by the Doctor Sri Chandrasekhar Sarma of Central Hospital, Coal India Ltd. at Margherita but the Chief Engineer told him that it was a false certificate obtained by him through influence through he was not sick. He inspite of his best efforts failed to convenience the Executive Engineer (Civil) that he was really sick and the certificate was a genuine one. On several occasions he went to his office to perform his duties but he was rebuked like anything by the Officers. Ultimately, the Personnel Manager, Coal India Ltd., North Eastern Coal Field Ltd. Margherita, issued charge sheet on 17.6.2004 vide Exhibit-1. Thereafter departmental enquiry was initiated against him. The workman also mentioned that the Management has not prayed for examination of fairness of the enquiry as preliminary issue. He has been deposing on merit though the enquiry was in gross violation of principle of natural justice. He was discharged from his service by the Personnel Manager, North Eastern Coal Fields, Coal India Ltd., Margherita on 05.01.2005, *vide* Exhibit-2. He also added that he is a poor man having 3 school going sons, wife and mother, maintaining his livelihood by performing the job of painter as and when available and his discharged from service is not only illegal but unjustified. He is entitled to be reinstated.

In course of his cross-examination the workman witness No. 1, Sri Niranjan Debnath denied the fact that he remained absent for 69 days, 142 days, 123 days, 211 days, 234 days, 272 days and 145 days till (17.6.2004) in the year 1998, 1999, 2000, 2001, 2002, 2003 and 2004 respectively. He admitted that he had received 2 show cause letters from the Company and his increment was stopped. He denied the suggestion tendered by the Management that he was degraded from service and that he was discharged from service due to his long absenteeism. The W.W. 1 further mentioned that in one departmental enquiry he remained present but in the departmental enquiry his statement was not recorded by the Management. He again categorically denied that he was asked whether he had to be defended by the co-worker while he refused. He also stated that on 18.9.2004 he was present in the departmental proceeding

and charge was not explained to him in Assamese but he never admitted his guilt nor prayed for apology and his discharged letter was sent to his home address on 5.1.2005.

7. The Management, on the other hand examined Sri Rajen Kumar Dutta, the then Chief Manager (Personnel), North Eastern Coalfields, Coal India Ltd., Margherita as Management witness No. 1. According to Management Witness No. 1 (MW.1) the workman was appointed as daily rated employee and engaged as General Mazdoor in the Management Company on 3.8.1991 being his employee No. 971, but the workman was a habitual absentee and he had to remain absent on various occasions as shown below:

Year	Period of absent
1988	69 days out of 212 actual working days.
1999	142 days.
2000	123 days.
2001	211 days.
2002	235 days.
2003	272 days.
2004	145 days upto 17.6. 2004.

The aforesaid attendance record of the workman for the year 2001, 2002, 2003 and 2004 are exhibited as Exhibit-A series. The Management witness concerned stated that the Management issued various letters to the workman who did never pay attention to the same and continued to remain absent from his work and thereby committed misconduct as per Standing Orders of North Eastern Coalfields as described in Schedule of Coal Mines (Nationalisation) Act, 1973, and hence the Management issued charge sheet being No. C/9/443/C dated 16.04.2001 to the workman and conducted an enquiry thereafter. In that enquiry the workman was found guilty of misconduct under the Provision of Standing Orders applicable to their Company and accordingly the Management by way of letter dated 30.10.2001 marked as Exhibit-B issued to the workman deciding to impose the following punishments to the workman:—

1. Stoppage of three increments without cumulative effect under the Clause 27.1(c), and
2. Posting under the Administrative Department to work as a General Mazdoor in Dehing Guest House.

Even after imposition of the aforesaid punishment the attendance of the workman never improved while the Management issued another charge sheet being No. 13/504/Adm dated 25.07.2002 and conducted another enquiry, whereby Management found the workman guilty of misconduct. Then the Management *vide* their letter dated 20.01.2003 issued to the workman marked as Exhibit-C

decided to impose the following punishment upon the workman:—

“Demotion from Category-II to Category-I under clause 27.1 (f) of the Standing Orders with initial basic pay.”

The MW. 1 further mentioned that the aforesaid punishment was imposed instead of dismissing the workman but the workman miserably failed to respond to the above and remained continuously absent from his work with effect from 13.3.03 without sanctioned leave or sufficient cause. Finding no alternative, the Management, issued another charge sheet dated 17.6.2004 whereby the workman was charged for misconduct as per clause 26.24 and 26.30 of Standing Orders *vide* Exhibit-1. But the workman did not care to improve his attendance and then the Management proposed to conduct departmental enquiry against the workman wherein Sri S.P. Chaki, Superintending Engineer (Civil) was appointed as Enquiry Officer and Sri C. Monim, Deputy Personnel Manager was appointed as Presenting Officer. Accordingly the workman was informed *vide* letter dated 17.7.2004 marked as Exhibit-E that the enquiry was proposed to be held on 20.7.2004 with request to the workman to be present at the office of the Superintending Engineer (Civil) at Margharita on 20.7.2004 along with all the required documents and also providing option to appoint a co-worker and produce witness/witnesses in support of his defence. On 20.7.2004 the Enquiry Officer recorded the statement of Presenting Officer and thereafter *vide* their letter dated 9.9.2004 the Management informed the workman that the departmental enquiry would be held on 15.9.2004 at 11 A.M. at the same venue and on that day the workman was present in the enquiry proceeding but he failed to produce any authentic document/evidence in support of his defence and thereafter the Enquiry Officer considered all the aspect of the case, substantiated the charges framed against the workman *vide* Exhibit-G beyond all reasonable doubt, and accordingly the Management by an order dated 5.1.2005 marked as Exhibit-H discharged the workman from the service of North Eastern Coalfields under clause 27.1(g) of the Standing Orders.

The Management witness concerned added that the workman was given ample opportunities to defend his case by issuing various letters to the workman for improving his attendance but he remained absent continuously from time to time which is a serious offences as per the Standing Orders. He also reiterated that the Management issued the impugned order as per law by complying all the requirements of law, and the enquiry was conducted in accordance with law. But the workman in spite of requesting him to be present with co-worker and produce documents/witnesses, if any failed to produce any document and on 15.9.2004 the workman expressed before the Enquiry Officer that he did not require the help of any co-worker and the workman accepted the charge before the Enquiry Officer. Since the workman accepted the charge the Presenting Officer did

not cross-examine the workman which shows that the Management has conducted the departmental enquiry in accordance with law and as such, the workman is not entitled to any relief as claimed for.

During his cross-examination the MW.1 stated that they have produced the Attendance records of the workman for the year 2001,2002,2003 and 2004 *vide* Exhibit-A series but he did not produce the Attendance Register in respect of the workman for the year 1998, 1999 and 2000. He said that in Exhibit-A series at page-1 the statement of Attendance Register there is one re-writing in Column-12, also in the statement of Attendance for the year 2002 there is one over writing in Column-6 at page 2 of Exhibit-A series there is a correction without the initial in the month of January, 2004. He admitted that he has not proved any document to show that the workman has acknowledged the receipt of the charge sheet dated 17.6.2004 (Exhibit-1), and he has not also produced the Standing Orders of North Eastern Coalfields as mentioned by him. In course of the suggestion tendered by the learned Advocate for the workman the MW.1 denied that the Exhibit-A series was not properly prepared and all these are tempered documents and that the notices marked as Exhibits-B and C were not served upon the workman as he has not produced any document to show the acknowledgement of receipt of the notices. The MW.1 also said that the enquiry was started against the workman on 20.7.2004 and the notice fixing said date was issued upon the workman on 17.7.2004 but there is no record to show that the subsequent enquiry was held on 15.9.2004 and the workman was also present on that day. He also denied the suggestion that the Statement of the workman was also recorded without asking the workman any question at the instance of the Enquiry officer. He further said that the enquiry proceeding marked as Exhibit-G at page-5 there is no mention to the effect that the workman was given an opportunity to cross-examine the Presenting Officer or any other witness for the Management. He also added that the show cause notice calling explanation upon the workman as to why punishment should not be imposed was issued to the workman but there is no record to show that before imposing punishment the notice asking the workman for any explanation/show cause was issued upon the workman. The Management witness again mentioned that the Officer-in-charge under whom the workman was working lodged complaint regarding his irregularities but he had not produced any document in this respect. He also categorically denied that the enquiry proceeding was held in violation of principles of natural justice and that the action taken by the Management upon the workman was arbitrary and illegal.

8. From the evidence adduced by both the sides along with the documents relied upon by them it appears that the plea of the Management that the workman Niranjan Debnath who was appointed as daily rated employee as General

Mazdoor on 3.8.91 under the Management was a habitual absentee who remained absent on different occasions without any authority, even the workman was cautioned at different occasions and show cause notices were issued upon the workman in this connection is found to be proved; and punishment of withholding three increments without cumulative effect imposed against the workman is an admitted fact. The Management also degraded the workman from Category-II to Category-I inspite of the above mentioned measures taken by the Management for improving and rectifying his conduct, the workman did not care to improve his attendance. In this regard the attendance record for the year 2001, 2002, 2003 and 2004 proved by the Management *vide* Exhibit-A series can not be thrown away although there is some minor over writing in the said attendance record as pointed out by the learned Advocate for the workman in course of cross-examination of the Management witness No. 1, and this minor defect in the attendance record might be occurred due to clerical mistake which is ignorable as it will not vitiate the entire testimony of the Management. The punishment of stoppage of three increments without cumulative effect and posting of the workman under Administration Department to work as General Mazdoor in Dehing Guest House *vide* order dated 30.10.2001 proved as Exhibit-B, is also found well established. The contention of the Management that another enquiry was held in connection with charge sheet dated 25.7.2002 wherein the workman was found guilty of misconduct under the provision of Standing Orders and the workman was punished for demotion from Category-II to Category-I under clause 27.1(f) of the Standing Orders which was communicated to the workman *vide* Management's letter No. 42/PIR/120 dated 20.1.2003 marked as Exhibit-C, which is an official document duly proved in the Court without any objection and hence, this contention of the Management that the workman was even degraded from Category-II to Category-I can not be disbelieved.

The workman in his evidence mentioned that due to his ill health sometimes he could not perform his duties and he submitted sick certificate issued by the approved Doctors of Coal India Ltd. but the workman has not been able to establish this plea producing supporting evidence either orally or documentary. Even in his evidence the workman admitted that in the month of June, 2002 he could not perform his duties for few days due to illness and he was absent for 7 to 10 days in the said month, although he after recovery reported for duty to the Executive Engineer (Civil) along with sick certificate but it was rejected by the Executive Engineer alleging that the said sick certificate was false, obtained using influence on the Doctor but the workman has not taken any step to establish his contention neither by adducing documentary evidence nor by examining the Medical Officer who issued the Medical Certificates. Thus the conduct of the workman in regard to regular absenteeism as claimed by the Management is well

established. The workman in his evidence mentioned that the Management issued charge sheet on 17.6.2004 marked as Exhibit-1 and a departmental proceeding was initiated against him which was communicated to him, but the departmental enquiry was held in gross violation of principles of natural justice and ultimately he was illegally discharged from his service on 5.1.2005 *vide* Management letter dated 5.1.2005 marked as Exhibit-2. In his cross-examination although he mentioned that he was present before the enquiry authority on 18.9.2004 but the charge was not explained to him in Assamese. There is nothing on record to show that the workman submitted his written statement reply to the charge sheet before the enquiry authority. From the documents namely charge sheet marked as Exhibit-1, the notices of enquiry marked as Exhibit-E and F; and the proceeding of departmental proceeding in to the act of misconduct against the workman according to the Standing Order in respect of the charge sheet No. LW.13/C.1/02/Admn. Dated 17.6.2004 held on 15.9.2004 proved as Exhibit-G (6 pages), along with the testimony of Management witness No. 1 it appears that the workman was informed to attend before the Enquiry Officer at the Office of the Superintending Engineer (Civil), Magherita on 20.7.2004 along with all the required documents and he was allowed the option to appoint co-worker and produce witness/witnesses in support of his defence. It has become crystal clear that the Management has duly informed the workman to attend the departmental proceeding held on 20.7.2004 and subsequently on 15.9.2004 with intimation to the workman *vide* Exhibit-F as it appears from Exhibit-G. While the statement of the workman in course of his cross-examination, that he appeared before the Enquiry Officer on 18.9.2004 is found to be not believable as the enquiry has already been completed on 15.9.2004.

9. In course of argument Mr. K.M. Haloi, learned Advocate for the workman submitted that the workman was not notified as to the initiation of the enquiry proceeding nor the workman was given any opportunity to represent himself as well as to be heard; and even the workman was deprived of exercising his fundamental right as enshrined in Constitution of India (Article 309 and 311). He also emphasized that the workman was an innocent and he would contest the departmental proceeding if notified to him. Mr. Haloi contended that the Management in order to deprive the workman from his job and with malafide intention initiated the enquiry proceeding keeping the workman in darkness and accordingly made this ex parte enquiry violating the principle of natural justice as well as the provision of Constitution by discharging the workman illegally exercising the hire and fire policy, and such action of the Management is liable to be set aside.

In support of his argument Mr. Haloi relied decisions laid down in the following cases of Hon'ble Supreme Court.

(a) In C.L. Subramaniam—vrs—The collector of

Customs, reported in AIR 1972 Supreme Court 2178, wherein it was held in Para-5 as- “The appellant who was a member of the Civil service of the Union of India was holding his office during the pleasure of the President; but in view of Article 311 of the Constitution, he could not have been removed from service except after enquiry in which he had been given a reasonable opportunity of being heard in respect of the charge levelled against him. This procedural guarantee is undoubtedly a valuable one. Breach of that guarantee vitiates the enquiry”

(b) In Managing Director, ECIL, Hyderabad and Others—vs—B. Karunakar and Others reported (1993) 4 Supreme Court Cases 727 and in Union of India and Others—vrs—Md. Ramjan Khan, it was held that Right to show cause against penalty proposed which has been taken away by the 42nd Amendment pertains to the second stage of the inquiry when disciplinary authority takes decision of the question of penalty imposable on the delinquent, denial of right to copy of the enquiry report amounts to denial of reasonable opportunity and violation of Articles 14 and 21 and principles of natural justice; Where punishment imposable is other than the major punishment of dismissal, removal and reduction in rank and the rules contemplate inquiry and the enquiry officer is not the disciplinary authority, then also enquiry report is to be supplied; and non-furnishing the copy of report of Enquiry Officer to the delinquent employee would be violative of principles of natural justice rendering the final order invalid against the delinquent void.

10. Mr. M.Z. Ahmed, learned Sr. Advocate for the Management, on the other hand, objecting to the submission of the workman side raised his argument stating that the workman was appointed as General Mazdoor daily rated worker in the event of removal of his father from service on medical ground. But the workman was found a habitual absentee and in spite of issuing caution letter/ warning letter and even imposing punishment for his absence the workman did not improve his attendance. Thereafter the Management finding no alternative initiated an enquiry, framed the charge against the workman for violation of Clause 26.30 and Clause-26.24 and Clause-26.24 of the Standing Order as discussed above, and issued notice along with the charge sheet against the workman.

Mr. Ahmed also mentioned that the workman was absenting from his duty deliberately without any intimation although he has taken the plea that due to medical ground he could not attend his duty but there is no iota of evidence on record to show that such explanation of the workman is found established and hence the workman is not entitled to any relief as claimed. In support of his contention he relied upon the decision of the Hon'ble Supreme Court in Bank of India—vrs—T.S. Kelawala and Others, S.U. Motors Private Ltd.—vrs—Workmen published in (1990) 4 Supreme Court Cases 744 that deliberate abstention from work, whether by resort to strike or go slow of any other method, legitimate, resulting in no works for the whole day or days

or part of the day or days, will entitle the management to deduct, pro rata or otherwise, wages of the participating workmen notwithstanding absence of any stipulation in the contract of employment or any provision in the service rules, regulations or Standing Orders.

Mr. Ahmed further argued that the workman being a daily rated worker appointed on a compassionate ground in the event of discharge of his father on medical ground, committed gross misconduct and due to such behaviour of the workman the order of discharge passed by the Management after holding enquiry is in no way illegal and the workman has also no right to the post. Mr. Ahmed relied upon the decision in Reserve Bank of India—vrs—Gopinath Sharma and Another wherein it was laid down that the workman not appointed to any regular post but engaged on the basis of need of work on day to day basis held, acquired to right to the post.

The Management side also submitted that the enquiry against the workman was held as per procedure and the charges framed against the workman was found well established, but due to failure of the Enquiry Officer to supply the enquiry proceeding and the punishment proposed by the Management against the workman will not vitiate the entire enquiry proceeding as well as its finding. Learned Advocate for the Management also submitted that if the Tribunal finds that the instant reference case would be prejudiced because of non supply of the report the Tribunal may set aside the order punishment and issue direction for fresh enquiry from the stage of supply of the report. In this connection Mr. Ahmed, the learned counsel for the Management, cited the decision of Hon'ble Supreme Court in NTC (WBAB&O) Ltd. and Another—vrs—Anjan K. Saha published in (2004) 7 Supreme Court Cases 581 which runs as follows:—

“The language of clause 14(4)(c) of the Model Standing Orders is not mandatory. In any case, non-compliance therewith cannot be held to be a more vitiating factor than non-supply of enquiry report. If the Constitution Bench of the Supreme Court in cases of non-supply of enquiry report directs the procedure to be adopted by allowing the employer to restart the enquiry from the stage of supply of enquiry report without reinstating the employee, why such a course should not be directed to be adopted where the other grievance of the employee is denial of opportunity to show cause against proposed penalty? When the court can direct a fresh enquiry from the stage of supply of enquiry report the next step in the enquiry of giving opportunity against the proposed penalty can also be directed to be taken. After the fresh enquiry is over from the stage of supply of enquiry report, the employee can be granted opportunity against proposed penalty in terms of clause 14(4)(c) of the Model Standing Orders. Consequential order, if any passed, shall abide the final result of the proceedings. As held in the case of B. Karunakar, (1993) 4 SCC 727 if the employee is cleared of the charges and is reinstated, the disciplinary authority would be at

liberty to decide according to law how it will treat the period from the date of dismissal till the period of reinstatement and the consequential benefits.”

Mr. K.M. Haloi, learned Advocate for the workman vehemently objecting to the submission of the learned Advocate for the Management citing the case of State Bank of Bikaner and Jaipur—vrs—Om Prakash Sharma reported in (2006) 5 SCC 123 that this Tribunal/Labour Court cannot go beyond the terms of reference and an award passed by the Labour Court in excess of his jurisdiction, held, his capability of correction by the High Court in exercise of the power judicial review. He also relied upon the decision laid down in Mahendra L. Jain and Ors.—vrs—Indore Development Authority and Ors. reported in (2005) 1 SCC 639 “(Head Note D). Labour law-Industrial Disputes Act, 1947—Ss 10 and 11—Jurisdiction of the Labour Court—Held, Labour Court cannot enlarge the scope of reference nor can deviate therefrom—A demand not raised at the time of raising dispute, cannot be adjudicated by it—Further held, no relief can be granted against a separate juristic entity which was not a party to the proceedings—M.P. Industrial Employment (Standing Orders) Act, 1961 (26 of 1961)—M.P. Industrial Employment (Standing Orders) Rules, 1963”.

On perusal of the document relied upon both the parties & upon preponderance of the testimony on record as well as the arguments placed by the learned Advocates from both the sides it appears that the Management have exhausted all the procedure for causing service of notice along with the charge sheet upon the workman and the workman has not been able to establish his contention that he was absent from duty with authority nor could he support his contention by adducing any oral or documentary evidence. Therefore, it is clear that the Management has been able to prove the charge of habitual absent from duty without sufficient cause and absent from duty without sanctioned leave or sufficient cause or over staying beyond sanctioned leave, as framed by the Management under Clause 26.24 and Clause 26.30 of the Standing Order. On scrutiny of the proceeding of the departmental enquiry and the findings of the Enquiry Officer marked as Exhibit-H together with my discussion as above, I find the charges were established against the workman. However there is nothing on record to show that the Management before imposing punishment against the workman the proceeding of the departmental enquiry & the final order imposing punishment was supplied to the workman. Due to such procedural irregularities, I find no reason to pass an award setting aside the punishment only because of the procedural irregularity *i.e.* the non-supply of proceeding of the enquiry along with its findings and the punishment imposed upon the workman, as it will cause much prejudice to this proceeding. As such I am inclined to accept the submission of Mr. M.Z. Ahmed, learned Advocate for the Management as to passing an Award allowing the employer to start the enquiry from the stage of supply of enquiry report without reinstating the

employee since the workman has already been discharged.

11. In view of my above discussion and the findings as well as the ratio of the decisions of the Hon’ble Supreme Court held in the cases aforesaid, I find it a fit case to follow the decision of the Hon’ble Supreme Court in NTC (WBAB&O) Ltd. and Another—vrs—Anjan K. Saha reported in (2004) 7 SCC 581. Further there is also no chance of infringement of jurisdiction of this Tribunal nor any violation of the terms of reference.

Accordingly this reference is disposed of directing the Management a fresh enquiry from the stage of supply of enquiry to the next step in the enquiry giving opportunity against the proposed penalty is also be directed; and after the fresh enquiry is over from the stage of the supply of the enquiry report the workman be granted opportunity against the proposed penalty as per provision of Model Standing Order. The Disciplinary Authority would be at liberty to decide according to law how it will treat the period from the date of dismissal in the event of passing any order of reinstatement or consequential benefit. The management is further directed to dispose of the inquiry proceedings as directed above, within three (3) months from the date of notification of the award. The workman is also directed to co-operate with the Management in disposing the inquiry proceeding.

Send the Award to the Government as per procedure.

Given under my hand and seal of this Court on this 21st day of November, 2013 at Guwahati.

L.C. DEY, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2013

कांआ० 2755.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 21 का 2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/12/2013 को प्राप्त हुआ था।

[सं. एल-20012/155/2007-आईआर (सीएम-I)]
एम् के० सिंह, अनुभाग अधिकारी

New Delhi, the 11th December, 2013

S.O. 2755.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2008) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Kustore Area of M/s. BCCL, and their workmen, received by the Central Government on 11/12/2013.

[No. L-20012/155/2007-IR(CM-I)]
M.K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL (NO. 2), DHANBAD****PRESENT:**

SHRI KISHORI RAM, Presiding Officer.

In the matter of an Industrial Dispute under Sec. 10 (1) (d) of the I.D. Act, 1947.

Reference No. 21 of 2008**PARTIES:**

Employer in relation to the management of Kustore Area of M/s BCCL and their workmen.

APPEARANCES:

On behalf of the workman: Mr. B.K. Mishra, Ld. Adv.

On behalf of the management: Mr. U.N. Lal, Ld. Adv.

State: Jharkhand Industry: Coal

Dated, Dhanbad, the 25th March, 2013

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/155/2007-IR(CM-I) dt. 03.03.2008.

SCHEDULE

“Whether the action of the Management of East Bhagatdih Colliery of M/s BCCL in dismissing the services of Shri Vijay Beldar, Fitter w.e.f. 26.05.2003 is justified and legal? If not, to what relief is the concerned workman entitled?”

2. At the very outset, it is pertinent to mention that no sooner did the workman on 26.09.12 file one petition with the Certified Copy of the Order dt. 27.08.2012 of the Hon’ble High Court, Jharkhand at Ranchi passed on in W.P. (S) No. 3825/2012 than the Tribunal expedited and tried to conclude the proceeding within 90 days from the date its certified copy placed before it on 26.09.2012. Due to unavoidable delay in filing of the Written Statement by the workman on 22.11.12 its Written Statement rejoinder of the management on 20.11.12, and examination of both the parties witnesses on Preliminary Point on 2nd Jan. and 8th Feb., 2013 respectively, it matured for disposal.

3. The case of the workman is stated in his written statement unsigned by him or by the sponsoring union representative Pintu Mandal, though earlier representing for the workman, is that petitioner Bijay Beldar (Personal

No. 01194174) was though the bona fide employee as the Mechanical Fitter at Kustore Area, East Bhagatdih Colliery of M/s B.C.C.L., Dhanbad, yet terminated from his service with immediate effect as per the Office Order No. EBC:PD:03No. 784 dt. 23/26.5.2003 in pursuance of the Ex-parte departmental proceeding which is legally unsustainable as no principles of natural justice were followed. After completion of his seven years’ service, he was upgraded to the next higher grade/category as the letter/Ref. No. EBC/PD/2002/F-SLU/64 dt. 9/14.1.2002. But due to some unavoidable circumstances, after giving leave application to the Controlling Officer, the petitioner went to his native place in Nov. 2002. The Management without considering his application initiated a departmental proceeding which was held ex-parte, as he was not available for his defence. On raising his industrial dispute by the Trade Union Janta Mazdoor Sangh before the Appropriate Government, when the management uncared for it, and the failure of conciliation resulted in the reference for an adjudication. The management though meanwhile decided and reinstated several similar persons as per its policy for reinstatement of the dismissed employees as published in the Hindustan News paper on 22.12.2011, it became insensitive to the present case. The petitioner and his entire family became hand to mouth even to beggary. The action of the management is contrary to the Articles 14 & 21 of the Indian Constitution. The petitioner is entitled to same sympathy and compassion as dealt with other terminated employees.

4. Likewise, the petitioner in his unsigned rejoinder categorically denied and stated that he was the obedient and sincere employee of the BCCL. He was never chargesheeted earlier. All the ex-parte departmental proceedings were without his knowledge. He is heartily eager to get his job.

5. Whereas with specific denials, the contra case of the management is that the petitioner was a habitual absentee who unauthorisedly absented from his duties w.e.f. 21.11.2002. So he was chargesheeted under clause 26.1.1. of the Certified Standing Order of the Company for habitual absentism as per the letter No. EBC/PD/03/Abs/ 202 dt. 6.2.2003 permitting him to submit his written explanation within 07 days, otherwise his acceptance of misconduct would be treated and necessary disciplinary action would ensue yet he did not reply to the chargesheet. As per the letter dt. 28.02.2003 with a copy to the procedee, the Disciplinary Authority appointed Sr. S.S. Roy as the Enquiry Officer and Sri Dilip Ram as Management Representative. Despite three Regd. Notices dt. 28.2.03, 1.3.2003 and 27.03.2003 fixing the date of 11th April, 2003 at 03.00 p.m., otherwise the enquiry to be held ex-parte, the workman neither appeared nor submitted any explanation about his non-attendance for duty. The enquiry was ex-parte held in which the Management Representative also

produced the past attendances of the workman as such 16, 63 and 84 days in the years 2000 to 2002 respectively. On the enquiry report of the Enquiry Officer, the Disciplinary Authority as per the letter No. EPC/PD/03/F-Abs/600 dt. 11.3/12.4.03 with a copy of the enquiry report issued to the workman for his written reply within 15 (fifteen) days. After perusal of the Enquiry Proceeding, Enquiry Report and supportive documents, the Disciplinary Authority decided to impose upon him the penalty of dismissal for his proved misconduct; accordingly he was dismissed from service as per the letter No. 784 dt. 24.5.2003.

6. Further the case of the management is that in the I.D. raised by the Union concerned, the management as for the letter No. BCCL/KA/DCPM/07 dt. 30.05.2007 had submitted in details before the Conciliation Officer/ALC(C), Dhanbad. The date of birth (DoB) of the workman Vijay Beldar as per the record is 22 years as on 28.08.86 and his date of appointment is 07.01.1987. Since the workman did not himself improve to be punctual in his duties, the action of the management for his dismissal on his proved misconduct is just, fair and quite legal. The workman is not entitled to any relief in the matter, as he was eager neither in his job nor in attending to the Enquiry, rather he had filed the Writ-W.P. (S) No. 3825/2012 before the Hon'ble High Court of Jharkhand at Ranchi which was dismissed as per the Order dt. 27.08.2012 with the observation to the Tribunal for expediting and concluding the proceeding of the Reference within specified time.

7. The management in its rejoinder specifically denied the allegation of the workman, and stated that so far as the record and policy of the Company about SLU to the workman with others are concerned, it was effected from 1.1.2001 as per the provision of NCWA and the Office Order No. EBC/PD/2002/F-SLU/64 dt. 9/14.1.2002 for Cat. V on upgradation. A look at the past attendance of the workman as meagre showed no improvement in him. The principle of natural justice was all along maintained in the enquiry

FINDING WITH REASONING

8. At a clear cut glance over the evidences of WWI Vijay Beldar, the petitioner and MWI Dilip Roy Assstt. of Bhagatdih Colliery for the management on preliminary point, the Tribunal as per Order No. 25 dt. 22.2.2013 held the ex parte domestic enquiry as quite fair and natural as per the rules of natural justice, as the petitioner could not produce reasonable reasons for the unauthorised absence from duty, rather it seemed his wilful evasion from the enquiry though ample opportunity was given. In result, the reference case came for hearing over the final argument.

9. Mr. B.K. Mishra, Advocate for the petitioner workman submits that dismissal of the workman for his first absentism is very harsh like capital punishment, so

he should be re-instated in his service even without backs. In response to it, Mr. U.N. Lal. the Ld. Counsel for the O.P./Management has contended that the meagre attendance of the petitioner manifests his habitual absentism from duty; if he was dismissed on his such proved misconduct under the specified Certified Standing Order of the Company, it was quite just and legal in that aspect.

10. On careful consideration of the materials available on the case record. I find the indisputable fact as under:

(i) the petitioner workman was a permanent employee as Mechanical Fitter of the Management.

(ii) Previously, he never faced any such charge of misconduct as evident from the record, and

(iii) He had served the East Baghatdih Colliery of M/s BCCL for a long time since his appointment on 07.01.1987.

Under these circumstances, as well as in exercise of the jurisdiction of the Tribunal u/s 11 A of the Industrial Disputes Act, 1947, I find and hold that the dismissal punishment to the petitioner-workman for his aforesaid misconduct is not only highly harsh and unjustified but also disproportionate to the nature of his misconduct of absentism, so it is liable to set aside.

In result, in view of the terms of the reference under adjudication, it is and the same be hereby :

ORDERED

that the action of the management of East Bhagatdih Colliery of M/s BCCL in dismissing the services of Shri Vijay Beldar, Fitter, w.e.f. 26.05.2003 is totally unjustified and illegal. Therefore, the workman is held entitled to reinstatement in his service but without back wages.

The O.P./Management is directed to implement the Award within six weeks from the date of its receipt following the publication of it by the Government of India, Ministry of Labour New Delhi in the Gazette of India.

KISHORI RAM, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2013

का०आ० 2756.- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ए यू एअर लाइन्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं 2, नई दिल्ली के पंचाट (संदर्भ संख्या 31 अॅफ 2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/12/2013 को प्राप्त हुआ था।

[सं० एल-11012/12/2010-आई आर (सीएम-I)]
एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 11th December, 2013

S.O. 2756.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/11) of the Cent. Govt. Indus.Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the industrial dispute between the management of Aerosvit Ukrainian Airlines, Room No. 1106, Surya and their workmen, received by the Central Government on 11/12/2013.

[No. L-11012/12/2010-IR(CM-I)]
M.K. SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL— CUM-LABOUR COURT-II, DELHI

PRESENT: Shri Harbansh Kumar Saxena

ID. No. 31/11

Sh. Krishan Kumar,
Tehsil & Distt. Rewari,
Haryana.

Vs.

The Director,
Aerosvit Ukrainian Airlines,
Room No. 1106,
Surya Kiran Building-19,
K.G. Marg, New Delhi-110001.

AWARD

The Central Government in the Ministry of Labour *vide* notification No L-11012/12/2010-IR(CM-I) dated 29/03/2011 referred the following Industrial Dispute to this tribunal for the adjudication:—

“Whether the action of the management of M/s Aerosvit Ukrainian Airlines New Delhi in terminating the services of Sh. Krishan Kumar, S/o Maman Singh, Ex Loader w.e.f. 25/08/2008 is just fair and legal? To what relief the workman concerned is entitled to and from which date?

On 18/04/2011 reference was received in this tribunal. Which was registered as I.D. No. 31/11 and claimant was called upon to file claim statement within fifteen days from the date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 23/11/2011. Wherein he stated as follows:—

1. That the employee joined your department on 09.10.1996 at Turkmanistan Airlines and starts working on

the post of loader and further after giving him promotion on 25.11.2003 transferred me in Aerosvit Airlines on the post of Airlines operator as both the Airlines are working together as well as the offices of both the Airlines was the same.

2. That the employee has been working sincerely and devotedly in your department. His date of appointment is 09.10.1996, a Identity card by your department was also issued to the employee *vide* PIC No. 1005573D in the year 2001 and was valid upto 31.12.2004 of Turkmanistan as the employee was on the post of loader. Further a New Identity Card was issued to the employee in the year 2007 and the same was valid upto 31.12.2009. The copies of both the Identity Cards are enclosed herewith for the kind perusal of this Hon’ble Court.

3. That on 23.08.2008 suddenly without any information your department sent a termination letter to the employee dated 23.08.2008 stating therein that your department is no more required the services of the employees in future. The copy of the termination letter dated 23.08.2008 is also enclosed herewith.

4. That the employee continuously works with both of your Airlines for about 12 years honestly, punctually but the Management/respondent never gave any benefit of P.F., ESI to the employee and despite the best services given by the employee the Management/respondent terminated the employee without giving any further intimation.

5. That the salary of the employee was Rs. 6200 per month at the time of termination and expect the above said salary, he was not provided any of the benefits as stated above throughout his services.

6. That the employee is a very poor person and is the sole bread earner of his family as the whole family is totally dependent upon him and it is now more than about 3 years of termination the employee and his family members are facing a great hardship as it can be said that the employee is his hand to the mouth or in other sense it can be said that the employee and his family is one the verge of starvation.

7. That it is further pertinent to mention here that the employee is married and is having two children including 3 married sisters and the education expenses of his two children is more than Rs. 1900 per month and the employee is ready to produce the documents of fees, if required by this Hon’ble Court. The employee is also having a policy in which he has to deposit Rs. 16,000 per annum and now it is very much difficult for the employee to afford all the above said.

8. That because of the above mentioned circumstances the employee goes into depression, mental pain and agony and further due to tension many a times the employee starts quarrelling with his wife and parents. It is very important to mention here that the Management/respondent had also not given one month of salary to the employee for which he deserves.

9. That the employees have also sent a letter to the Chief Minister of Delhi. The copy of the said letter is also enclosed herewith for the kind perusal of this Hon'ble Court.

10. That the employee at last filed a case against the Management/respondent and the Management/respondent had sent a false and frivolous Reply to the employee, alleging false and fabricated facts in the said reply. That the Management/respondent is alleging false facts in their reply only in order to harassed the poor employee.

11. That is has been stated in their reply that at the time of joining there executed a Agreement between the employee and the Management/respondent which is totally false as the employee had never being served with any agreement or had signed any agreement. However, if there are any documents signed by the employee are without the knowledge and full information to the employee. It is further stated that if any documents were signed by the employee, those were signed only on the good faith of the Management/respondent but the Management/respondent has illegally, unlawfully terminated the poor employee.

12. That the employee approached the Management/respondent so many times and sent request letters for rejoining him but the said Management/respondent did not pay any heed to the requests of the employee. Copy of the letter is enclosed herewith. Hence the employee has filed the said claim.

13. That due to the adamant attitude and not appointing the employee further on service commits an unfair practice by the Management/respondent.

On the basis of contents mentioned in aforesaid paragraphs Labour/Claimant prayed that this Hon'ble may kindly be pleased to pass an award in favour of the employee and against the Management/respondent directing them to take the employee on service and to provide him all the benefits i.e. P.F., gratuity etc including the Medical facilities alongwith increments which were till date not given by the respondent. In this regard the Management/respondent be called in the conciliation proceedings before this Hon'ble court, and if the Management/respondent fails to heed the request, same may please be forwarded to the concerned court for compulsory adjudication.

**Management filed its written statement on 17.04.12.
Wherein he stated as follows:—**

PRELIMINARY SUBMISSION/OBJECTIONS

1. The claim of the workman filed before this Hon'ble Court does not fall within the ambit and scope of Section 2A of the Industrial Disputes Act, 1947, as the employment of the employee was terminated by the Management in terms of the contract entered into between the Employee and the Management and more particularly due to change of law and policy by the Govt. of India due to security reasons, which is beyond the control of the management.

2. It is pertinent to mention here that the Government of India changed its policy regarding airlines and as per DGCA Circular No. 7/2007 dated 28th September, 2008, the airlines operators or any other ground handling service providers not covered by the policy shall not be allowed to undertake self-handling or third party handling with effect from 01st January, 2009.

3. It is respectfully submitted that due to the change in Government Policy, the Management was forced to retrench/terminate its ground handling staff/operator at IGI Airport, New Delhi and when the Airlines was not allowed to undertake the said job, as such the Management being not authorized the above job, being foreign airlines, was not in entitled to let the Employee continue with his employment in contravention of the Policy passed by the Government of India in this regard hence the Management was constrained to issue Termination Letter to all its employees who were engaged in the job of ground handling and operator at IGI Airport. The said policy of the Government clearly provided that the airlines operator or any other ground handling service providers not covered by this policy shall not be allowed to undertake self-handling or third party handling with effect from January, 01, 2009. The copy of Circular No. 4/2007 and 7/2007 and 7/2007 issued by the Govt. of India in this regard is enclosed herewith as Annexure—"A".

4. It is also respectfully submitted that the Workman was appointed vide Employment Agreement dated 25th November, 2003 executed between Airlines (Management) and Workman, wherein the Workman was appointed as Operator on Probation basis w.e.f. 1st January, 2004 for a period of six months from the date of joining, which may be extended for any such period which shall be deemed to be the extended Probationary Period. Copy of Employment Agreement is annexed as Annexure "B".

5. That as per the terms and conditions of the Employment Agreement, the Employee's Contract may be terminated by either side without assigning any reason thereof and by giving seven days/one month's notice to the other party in writing or payment in lieu thereof.

6. That the Workman has signed the above said Employment Agreement and accepted it's all terms and conditions.

7. That the Management due to change of Policy by the Government of India as mentioned above and as per terms and conditions of the Employment Agreement, on 23rd July, 2008 issued a Letter of Termination by one month notice as required under the agreement w.e.f. 23rd August, 2008, wherein the Workman was informed that his services were not required in future by Airline/Management and the said Letter of Termination shall be deemed to constitute a Written Notice (one month's).

8. That during the course of mediation, the above facts were appraised to the Employee and the concerned mediation authority and in fact the Management offered to help the employee in getting employment in other institution on similar terms of his service, to which he refused.

9. That the Management has come to know that the Employee has already in employment of other organization and the Management carves leave of this Hon'ble Tribunal place proof the same on record at appropriate stage of proceeding.

PARAWISE REPLY

1-2 That the contents of Para No. 1 and 2 of the Statement of Claim as stated are totally wrong and denied as incorrect. In reply thereof it is submitted that the Employee was appointed by the Management vide his Employment Agreement dated 25th November, 2003 as Operator on Probation basis only w.e.f. 1st January, 2004 and not w.e.f. 09.10.1996 as alleged and any averment contrary to the same are wrong and denied as incorrect. The Turkmenistan Airlines is separate entity from that of Aerosvit Airlines and merely sharing office with the that Airlines does constitute that the Employee was employed with Aerosvit Airlines (Management herein) as well. Which fact is evident from the terms of Employment Agreement 25th November, 2003 where under the Employee was employed with Management on Probation basis for a period of six months from the date of joining, and not absorbed from the employment of Turkmenistan Airlines. It is respectfully submitted that alleged identity cards referred to para under reply are not his identity cards but only a Airport Entry pass, without which the Employee could not

enter into IGI Airport. The said Entry pass are issued for security reasons and under the rules and regulations and authority of BCAS (Bureau of Civil Aviation Security) an Instrumentality of the Govt. of India. It is pertinent to mention here that from the bare perusal of both Airport Entry Passes it is evident that Airport Entry Pass Bearing PIC No. N01005573D pertains to Turkmenistan Airlines (Valid upto 31.12.2004) whereas another Airport Entry Pass pertain to Aerosvit Airlines (Management herein and valid upto 31.12.2009). Furthermore from the terms of the Employment Agreement it is evident that the Employee was employed with the Management on probation basis which continued till the date of his termination due to the reason stated in under the preliminary submissions/objection hereinabove which are not repeated here for the sake of brevity and the same may kindly be read as part and parcel of the present reply.

3. That the contents of para No. 3 of the Statement of claim as stated are wrong and denied as incorrect. It is wrong to allege that the Employee was terminated by the Management suddenly and without any information. It is respectfully submitted that the Employee was duly informed by the Management vide its letter dated 23.07.2008 under which the Employee was informed about his termination by giving one month notice. As already submitted hereinabove, the employment of the Employee was terminated by the Management in terms of his employment agreement and due to the Policy of the Govt. of India in this regard. In further support of para under reply the Management seeks leave of this Hon'ble Tribunal to refer the contents of preliminary submissions/objections which are not repeated here for the sake of brevity and the same may kindly be read as part and parcel of the para under reply.

4-5 That the contents of para No. 4 and 5 of the Statement of Claim under reply are wrong and denied as incorrect. It is vehemently denied that the Employee continuously works with the Management for about 12 years as alleged or the Management never gave any benefits of his employment as alleged. As already stated hereinabove, the Employee was employed with the Management on probation basis only w.e.f. 01.01.2004 and continued under extended probation till his employment was terminated by the Management with effect from 23.08.2008 due to the reasons as stated above and during such period he was provided all benefits of employment as per the terms of his employment agreement.

6-8 The the contents of para No. 6 to 8 of the Statement of Claim are wrong and denied for want of knowledge. The Employee be put to strict proof thereof.

However, without prejudice in reply thereof it is submitted that after being relieved from the employment of Management, the Employee joined the employment of other organization and the factum of his subsequent employment has not been disclosed by the Employee for the reason best known to him. The Management seeks leave of this Hon'ble Tribunal to place proof in this regard at an appropriate stage of proceedings.

9. That the contents of Para No. 9 of the Statement of Claim are matter of records hence need no reply of the Management.

10. That the contents of para No. 10 of the Statement of Claim are wrong and denied as incorrect. The employee be put to strict proof thereof. The Management has neither sent any false or frivolous reply nor ever harassed the employee in any manner whatsoever. In further support of para under reply the Management seeks leave of this Hon'ble Tribunal to refer to the contents of preliminary submissions/objections and preceding paras of reply which are not repeated here for the sake of brevity.

11. That the contents of para No. 11 of the Statement of Claim are wrong and denied as incorrect. As already submitted hereinabove the Employee entered into Employment Agreement with the Management as Operator w.e.f. 01.01.2004 on probation basis and in terms of the said agreement and any averment made contrary to the same are totally wrong even to the knowledge of the Employee. In further support of para under reply the Management seeks leave of this Hon'ble Tribunal to refer to the contents of preliminary submissions/objection and preceding paras of reply which are not repeated here for the sake of brevity.

12. That the contents of para No. 12 of the Statement of Claim are totally wrong and denied as incorrect. The Employee be put to strict proof thereof.

13. That the contents of para No. 13 of the Statement of Claim are totally wrong and denied as incorrect It is vehemently denied that the Management has committed any alleged attitude. As already submitted hereinabove due to the change of Policy of the Govt. of India under circular No. 4/2007 and 7/2007 the Management, being foreign airlines was not allowed to carry out its ground handling services or appoint its own loader or operator in this regard at IGI Airport w.e.f. 01.01.2009 and such services were to be undertaken by the Govt. approved vendors alone as per the requirement of the above circulars, as such the employment of the Employee with the Management as operator had become redundant for which the Management cannot be faulted with. In further support of para under reply the Management seeks leave of this Hon'ble Tribunal to refer to the contents of preliminary

submissions/objections and preceding paras of reply which are not repeated here for the sake of brevity.

In view of the submission made hereinabove it is respectfully submitted that the alleged claims of the Employee against the Management are wrong, misconceived and are therefore denied.

In the premises, it is respectfully prayed that the Employment is not entitled to any relief whatsoever and the Claim of the Employee be dismissed with cost.

**Claimant/Workman filed replication on 11.09.12.
Wherein he stated as follows:—**

1. The Para No. 1 of the preliminary objections of the written statement of the Management is wrong and denied hence not admitted. It is worthwhile to mention here that the claim of the employee is maintainable in the eye of law and the contract in question does not give freedom to any employer to throw out any employee at any stage.

2. That Para No. 2 of the Preliminary objections of the written statement of the Management is wrong and denied hence not admitted. The policy in question never directed to any airlines to not to compensate any employee.

3. That Para No. 3 of the Preliminary objections of the written statement of the Management is wrong and denied hence not admitted. The detail given in para No. 2 may kindly be read as part and parcel of reply of Para No. 3.

4. That Para No. 4 of the Preliminary objections of the written statement of the Management is wrong and denied hence not admitted. The employee worked under the supervision of the defendant but they never provide any facility like P.F., E.S.I. to the employee and at throw out the employee without any claim or compensation. The above mentioned act of the defendant is wrong an illegal and against the natural justice.

5. That Para No. 5 of the Preliminary objections of the written statement of the Management is wrong and denied hence not admitted. The defendant has misused the condition of the agreement.

6. That Para No. 6 of the Preliminary objections of the written statement of the Management is wrong and denied hence not admitted. The employee was asked to sign some paper by saying that these are mandatory for working with defendants. He was never told about the conditions of the agreement. It is worthwhile to mention here that the claimant does not know much about English and the agreement was executed by the defendants in English with bad intention.

7. That Para No. 7 of the Preliminary objections of the written statement of the Management is wrong and denied hence and admitted. The defendants never issued any notice to the employee.

8. That Para No. 8 of the Preliminary objections of the written statement of the Management is wrong and denied hence not admitted. It is specifically denied that the defendants ever offered to the employee in getting employments in other institution on similar terms of his service. The defendants never gave any offer like this.

9. That Para No. 9 of the Preliminary objections of the written statement of the Management is wrong and denied hence not admitted. The defendants should prove the allegation made.

Replication Para wise:—

1. That the Para No. 1 and 2 of the written statement is wrong and denied and not admitted. The true facts are described above.

2. That Para No. 3 of the written statement is wrong and denied and not admitted. The defendants made false story no notice was served to the employee.

3. That Para No. 4 and 5 of the written statement is wrong and denied and not admitted. The employee served with defendants for 12 years he was never given any facility as alleged.

4. That Para No. 6 and 8 of the written statement is wrong and denied and not admitted. The plaintiff lost the very important 12 years of his life with defendants and now he started with a new point of his life. The life of the employee was totally destroyed by the defendants.

5. That the Para No. 9 needs no reply.

6. That Para No. 10 of the written statement is wrong and denied and not admitted.

7. That Para No. 11 of the written statement is wrong and denied and not admitted. The facts are described in Para No. 6 of the reply of Preliminary objections.

8. That the Para 12 needs no reply.

9. That Para No. 13 of the written statement is wrong and denied and not admitted. The said policy did not bind any management to not to compensate any employee who had served to the management.

The prayer Para of the written statement is wrong and denied and not admitted. The employee is fully entitled to get relief as mentioned in the claim petition.

On 11/9/2002 my Ld. Predecessors mentioned in order sheet as follows:—

It is submitted from both sides that no issue other than one mentioned in the reference is necessary in this case. That being the position, let evidence be lead. Now, for evidence of the workman by way of affidavit, to come up on 20.12.2012.

In support of his case workman WW1 Shri Kishan Kumar filed his affidavit on 24/6/2013. Wherein he mentioned as follows:—

1. That the deponent joined the department of the respondents/management on 09.10.1996 at Turkamanistan Airlines and started working on the post of Loader. Thereafter the deponent was promoted on the post of operator and he was transferred in Aerosvit Airlines on 25.11.2003 as both the airlines are working together as well as the offices of the both were same.

2. That the deponent has been working sincerely and devotedly in the department of the respondent. The date of joining of the deponent is 09.10.1996 and Identity Card is EX WW1/1 was also issued to the deponent by the respondent of Turkamanistan Airlines as the deponent was posted on the post of Loader which are relied by him. Further a new identify card Ex WW1/2 was issued to the deponent in the year 2007 and the same was valid upto 31.12.2009.

3. That on 23.07.2008 suddenly without any information, the respondent sent a termination letter Ex WW 1/3 to the deponent stating therein that the respondent is no more required the services of the deponent in future.

4. That the deponent continuously worked with both the Airlines of the respondent for about 12 years honestly, punctually but the respondent never gave any benefit of P.F., ESI to the deponent and despite the best services given by the deponent, the respondent terminated the employee without giving any reason or further information.

5. That the salary of the deponent was Rs. 62,00 per month at the time of termination and except the above salary he was not provided any of the above stated benefits throughout his service.

6. That the deponent is very poor person and he is the sole bread earner of his family as the whole family is totally dependent upon him and it is now more than 3 years of termination, the deponent and his family members are facing a great hardship as it can be said that the deponent is his hand to mouth or in other sense it can be said that the employee and his family is on the verge of starvation.

7. That the deponent is married and having two children including 3 married sister and the education expenses of his two children more than 2500 right now. The deponent is also having a policy in which he has to deposit Rs. 16,000 per annum and now it is very much difficult for the deponent to afford all the above mentioned expenses.

8. That due to the termination by the respondent and above mentioned circumstances the deponent goes into depression, mental pain and agony and further due to tension many times the deponent started quarreling with his wife and parents. It is also worthwhile to mention here that at the time of termination of the deponent the respondent did not give the one month salary to the deponent for which he deserves.

9. That the deponent have also sent a letter to the Chief Minister of Delhi. The copy of said letter is Ex. WW 1/4.

10. That the deponent at last filed the present case against the respondent and the respondent had sent a false and frivolous reply to the deponent, alleging false and fabricated facts in the said reply. The respondent is alleging false facts in their reply only to harass the poor deponent.

11. That it has been stated in the reply by the respondent that at the time of joining the deponent executed an agreement which is totally false as the deponent never being served with any agreement or had never signed any agreement. However, if there is any document signed by the deponent are without the knowledge and full information to the deponent. It is further stated that if any documents were signed only on the good faith of the respondent but the respondent has illegally, unlawfully terminated the poor deponent.

12. That due to the adamant attitude and not appointing the deponent .

Further on service the respondent committed an unfair practice which is wrong and illegal and against the natural justice.

13. That the deponent is entitled to get P.F., gratuity etc. including medical facilities which were not given to the deponent as well the termination of the deponent is liable to be set aside.

14. That the affidavit is drafted as per my instructions and read over to me in simle Hindi and I put my signatures on it after understanding it to be correct.

Alongwith affidavit he annexed 6 photocopies of certain papers.

Same day he examined himself for tendering his affidavit and paper annexed in his affidavit.

He was partly cross-examined by Geeta Mahlotra. A/R for the Management.

Cross-Examination is as follows :

I was appointed as a loader by the Turkiministan Airlines of 09.10.996. No appointment letter was issued by them in my favour. Copy of promotion was also not issued in my favour. On 25.11.2003, my services were transferred to Aerosvit Ukrainian Airlines. Letter Transferring my services to the aforesaid employer was not issued in my favour. It is correct that Turkiministan Airlines and Aerosvit Ukrainian Airlines are two different organizations. Vol. office of these two organizations were at one and the same premises and maintenances services were carried on by one and the same set of persons and equipments were being exchanged by the two organizations. It is incorrect that maintenance services were not carried on by one and the same set of persons equipment were not being exchanged by the two organization. It is correct that I joined my services with the management, that is Aerosvit Ukrainian Airlines on 01.01.2004 Vol. I joined my services in the said organization on 25.11.2003. I was made to sign a form for issuance of pass.

I am senior secondary pass. I have studies English also. Ex. WW1/M1 bears my signature at Point A. Ex. WW1/M1 was signed by me after issuance of a pass in my favour. It is correct that there is stipulation in Ex. WW1/M1 that it is effective from 01.01.2004, though signed on 25.11.2003. When I signed Ex. WW1/M1, my salary was Rs. 4400.00 per month. I have not challenged Ex. WW1/M1 till date. Vol. Copy Ex. WW1/M1 was not supplied to me. Ex. WW1/1 to Ex. WW1/4 are entry passes. These are not identity cards. Ex. WW1/5 was received by me by post. The management is not carrying out self ground handling services, since the termination of my services. I am not aware as to when circular Ex. WW1/M2 was issued. It is incorrect that at the time of termination of my services, I was told that on account of change of the policy of the Government relating to ground handling services, the management cannot continue with my service. About 31 persons were bade farewell alongwith me. The management had not offered alternative job to me. It is incorrect that alternative job was offered to me by the management.

Retrenchment compensation was not paid to me. Vol. my one month's salary has not been paid by the management to me till date. Further cross examination of the witness is deferred Ms. Geeta wants to put facts, through documents, relating to payment of retrenchment compensation to the witness.

Further cross-examination was deferred to 1/08/2013 Geeta Mahlotra. A/R for the management made a endorsement on for Sheet to the effect.

"No instructions received from management, so unable to cross further the workman".

Management in support of its case produced no evidence.

WRITTEN ARGUMENT ON BEHALF OF EMPLOYEE

1. That the employee is very poor persons and he is unable to hire a counsel for him, hence he is carrying on his case/application proceedings in person. The employee is not having the proper knowledge about the legal proceedings of drafting etc. of the case. Hence, the liberal view may kindly be taken regarding the technicality and drafting of the application, evidence and other proceedings filed by the employee. The facts of the present case are mentioned as below:

2. That the employee joined service 09.10.1996 at Turkmanistan Airlines and starts working on the post of loader and further after giving him promotion on 25.11.2003, the respondents transferred him in Aerosvit Airlines on the post of Airlines operator as both the airlines are working together as well as the offices of both the Airlines was the same. A Identity Card was also issued to the employee which is placed on file as document Ex. WW1/1 and New I card was also issued to the employee in the year 2007 which is also placed on file as document EX. WW1/2. It is clear from the perusal from the document EX. WW1/2. that it was valid till 31/12/2009.

3. That the employee was working with the respondents sincerely and devotedly and no complaint was pending against the employee regarding his work. Although he was permute from the post of loader to the post of Airlines Operator due to his work efficiency.

4. That on 23/07/2008 suddenly without any information, the respondents sent a illegal termination letter EX. WW1/3 to the employee stating therein that the respondent is no more required the service of the employee in future. The said termination letter sent by the respondent is illegal and against the provisions of law and not sustainable in the eyes of law.

5. That the employee continuously works with both of the Airlines of respondent for about 12 years honestly, punctually but the Management/respondent never gave any benefit of P.F., ESI to the employee and despite the best services given by the employee the Management/respondent terminated the employee without giving any further intimation.

6. That the salary of the employee was Rs. 6200/- per month at the time of termination and expect the above said salary, he was not provided any of the benefits as stated above throughout his services.

7. That the employee is a very poor person and is the sole bread earner of his family as the whole family is totally depend upon him and it is now more than about 3 years of termination the employee and his family members are facing a great hardship as it can be said that the employee is his hand to the mouth or in order sense it can be said that the employee in his hand to the mouth or in order sense it can be said that the employee and his family is one the verge of starvation.

8. That it is further pertinent to mention here that the employee is married and is having two children including 3 married sisters and the education expenses of his two children is more than Rs. 1900/- per month and the employee is ready to produced the documents of fees, if required by this Hon'ble Court. The employee is also having a policy in which he has to deposit Rs. 16,000/- per annum and now it is very much difficult for the employee to afford all the above said.

9. That it has been stated in their reply that at the time of joining there executed a Agreement between the employee and the Management/repondent which is totally false as the employee had never being served with any agreement or had signed any agreement. However, if there are any documents signed by the employee are without the knowledge and full information to the employee. It is further stated that if any documents were signed by the employee, those were signed only on the good faith of the Management/respondent but the Management/respondent has illegally, unlawfully terminated the poor employee.

10. That the termination of the employee is illegal and against the natural justice. The alleged guidelines of DGCA does not compel any Airline company to throw out his workers against the provisions of law. The appointment of the employee was not subjected to the guidelines of DGCA. The defense taken by the respondent is wrong and illegal and sustainable.

It is, there, humbly prayed that this Hon'ble Court may kindly be pleased to pass an award in favour of the employee and against the Management/respondent directing them to take the employee on service and to provide him all the benefits i.e. P.F., gratuity etc. including the Medical facilities alongwith increments which were till date not given by the respondent. Any other relief which the Hon'ble court deems fit and proper may also be granted in favour of the employee keeping in view the above facts.

In the light of oral contentions and written arguments of workman/claimant I perused the pleadings of the parties, Issues and evidence led by parties.

Perusal of evidence on record shows that claimant/ workman in support his case produced his oral and documentary evidence. In which he produced himself as WW1. He was partly cross-examined on 24/06/13 by Ms. Geeta Mahlotra Ld. A/R for Management and his cross-examination was deferred for 1/08/13. Thereafter she made an endorsement on order-sheet 1/08/13 to the effect “No instruction to further cross-examine the WW1 Krishan Kumar”. Thereafter she refused to further cross-examine the WW1 Krishan Kumar.

It is relevant to mention here that management has not appointed any other A/R to conduct its case on behalf of Management since 1/08/13. Nor any Pairokar etc. on behalf of management came to attend the proceeding in this old I.D. No. 31/11. Since 1st date of cross-examination of WW1 i.e. 24/06/13.

It is also relevant to mention here that management in support of its case produced no evidence. Although burden to prove question of Adjudication referred to this Tribunal lies on management. On behalf of management- No oral or written argument were advanced.

In the light of contentions of workman/claimant I perused the settled law of Hon’ble Supreme court on the point of reinstatement and grant of back wages which shows that reinstatement is not a necessary consequence wherever termination is held illegal. Depending upon the facts of each case a suitable compensation can be awarded. In Assistant Engineer, Rajasthan Dev. Corporation and Anr Vs. Gitam Singh, (2013) II LLJ 141 Hon’ble Supreme Court has held that reinstatement of workman with continuity of service and 25% back wages was not proper in the facts and circumstances of the case and the compensation of Rs. 50,000/- (Rs. Fifty Thousand Only) shall meet the ends of justice. In Jagbir Singh Vs. Haryana State Agriculture Marketing Board & Anr AIR 2009 Supreme Court 3004, Hon’ble Supreme Court held thus “the award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded.” In catena of Judgements, Hon’ble Supreme Court has taken a view that reinstatement is not automatic, merely because the termination is illegal or in contravention of S-25-F of the Industrial Dispute Act. In Talwara Co-operative credit and service society Limited Vs. Sushil Kumar (2008) 9 SCC 486, Hon’ble Supreme Court

held thus, ”grant of relief of reinstatement, it is trite, is not automatic, Grant of back wages is also not automatic”.

Workman of the instant case was not appointment by following due procedure and as per rules. He had rendered service with the respondent as a casual worker, thus. Compensation of Rs. 50,000/- (Rs. Fifty thousand only) by way of damages as compensation to the workman/ claimant by Management after expiry of period of limitation of available remedy against Award. That will meet the ends of Justice.

Thus Reference is decided in favour of workman and against Management.

Award is accordingly passed.

Dated -18-11-2013

HARBANSK KUMAR SAXENA, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2013

का०आ० 2757.-—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टिस्को के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 96 का 2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/12/2013 को प्राप्त हुआ था।

[सं० एल-20012/188/2003-आई आर (सी-I)]
एम् के० सिंह, अनुभाग अधिकारी

New Delhi the 11th December, 2013

S.O. 2757.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 96/2003) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management TISCO of and their workmen, received by the Central Government on 11/12/2013

[No. L-20012/188/2003-IR(C-I)]
M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2)AT DHANBAD

PRESENT: SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

Reference No. 96 of 2003

PARTIES:

Employer in relation to the management of West Bokaro Colliery of M/s. TISCO and their workmen.

APPEARANCES:

On behalf of the workmen: Mr. D. Mukherjee, Ld. Adv.

On behalf of the Management: Mr. D.K. Verma, Ld. Adv.

State: Jharkhand Industry: Coal

Dated, Dhanbad, the 10th April, 2013

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/188/03-IR (C-I) dt. 28.08.2003.

SCHEDULE

"Whether the demand of the Tisco workers union from the management of West Bokaro Colliery Washing Plant of M/s. Tisco Ltd. to upgrade 167 workmen (as per list) from Gr. "D" (Tech.) to Gr. "C" (Tech.) is justified? If so to what relief are the workmen entitled and from what date?."

2. The case of the Tata Iron and Steel Company Ltd. Workers Union for 167 workmen (as per enclosed list) is that the TISCO has been carrying on its mining operations at West Bokaro Colliery as also at Jamadoba Colliery at Jamadoba in District: Dhanbad, in addition to handling a Washing Plant at Ghatotand (Hazaribagh). The post of Fitter-cum-Operator both at West Bokaro Collieries and that of Jamadoba Washing Plant, both of the Management of TISCO are inter exchangeable, and the payments are made by the TISCO in the same scale. The management of TISCO at both the Collieries and the Washing Plants at both places are controlled by the Head Quarters of TISCO.

In view of the fact that the workmen with same qualifications working at the Washing Plant, Jamadoba, doing the same job of the same nature of duty were given upgraded scale of grade (Technical) known as F.C.O. Category V and VI respectively as per the Award dt. 10.04.1979 of the Tribunal concerned in their reference which was upheld by the Orders dt. 09.09.89 and 6.2.96 by the Hon'ble Patna High Court in the C.W.J.C. No. 1980(R) and L.P.A. No. 79/1988(R) respectively. Though Mr. S.M. Sahabuddin of same status was, later on also given the aforesaid benefit as per the office Order/Letter No. 6472 dt. 1/12.3.1997. The present workmen (Fitter-cum-Operators) working at the Washing Plant, West Bokaro Collieries, Ghatotand, demanded from the General Manager of the TISCO for same treatment, payment and upgradation of

Grade 'C' scale of Fitter-cum-Operator, even twice demanded on 22.5.1999 from the management to initiate the conciliation of the Industrial Dispute raised by the workmen before the Labour Commissioner. But the failure in the conciliation resulted in the reference to the Tribunal for an adjudication in it. The workmen as Fitter-cum-Operator at Ghatotand, Hazaribagh under the same employment of TISCO are entitled to upgradation from 'C' and 'D' (Technical) to Grade 'C' Technical as given to the counterpart of the Washing Plant, Jamadoba by the TISCO itself. As both the Mines and Washeries belong to the same management of TISCO, which can not be allowed to discriminate its employees on the basis of places of duties. The workmen of Ghatotand also entitled to the benefit of the upgraded scale of Fitter-cum-Operator Grade 'C' w.e.f. 1982 as given to their counterpart of Jamadoba and also to upgrade scale of Grade-C (Technical) w.e.f. 1982 with all arrears of wages and consequential benefits. The demand of the workmen concerned is genuine and justified.

3. The Union Representative for the workmen in its rejoinder specifically denying all allegations of the management has to state that the reference to allege it as Cadre Scheme for Coal Washery is irrelevant for an adjudication of the case, and the claim of the concerned workmen is based on the alleged Cadre Scheme. By alleged Implementation Instruction No. 6 on dt. 8.7.86 or alleged Cadre Scheme can not supersede the existing Cadre Scheme; and an Award has been implemented. Any circular or Cadre Scheme in violation of the Award dt. 10.4.79 was illegal and void ab initio. As per the Award all the workmen are entitled to upgradation Grade 'C' (Technical) with retrospective effect with all arrears of wages and consequential benefits.

4. Whereas the contra pleaded case of the Opp./Management with categorical denials is that the reference is unmaintainable in law or in facts. The Union being unrecognised and non-functional in Washing Plant or in any of the establishments of West Bokaro Division has no locus standi to raise the I.D. for the workmen. As discussion over Cadre Scheme for Coal Washing Personnel at the meeting of the promotion Policy Committee held on Dec. 4 and 5, 1985 and March, 19 and May, 20, 1986 finalised at the meeting on June, 19 and 20, 1986, it was also agreed the Member Secretary, JBCCI might issue Implementation Instruction in this respect. Thereafter as per the Implementation Instruction (I.I.) No. 60 dated 8.7.1986 issued by the J.B.C.C.I., the Cadre Scheme for Washery Personnel was circulated and the existing Cadre Scheme, if any for this discipline shall become inoperative simultaneously with coming into force of this Scheme. The Cadre Scheme has been framed on the basis of the organisational set up prevailing in Coal India and its

subsidiaries and TISCO, IISCO and SCCL will be allowed to make modification in the same whenever required to suit the local condition without lowering the standard of this Cadre Scheme in consultation with the Union Representatives at their level. The West Bokaro Colliery Management circulated a Cadre Scheme for Washery Personnel in respect of Fitter-cum-Operator with consultation with the local Union considering the Cadre Scheme circulated by JBCCI for Fitter-cum-Operator and maintained the guidelines issued by the JBCCI. As per the Cadre Scheme, the Fitter-cum-Operators are put under Categories V, VI and Technical Grade 'C'. The Fitter-cum-Operator in Category V will be promoted as Fitter-cum-Operator in Category VI as per the recommendation of the Departmental Promotion Committee on the basis of interviews Likewise, the Fitter-cum-Operator, Category VI will be promoted in Grade Tech. 'C' as per Cadre Scheme only on the recommendation of the Departmental Promotion Committee after holding Trade Test. So the demand of the Union for the workmen for upgradation of Fitter-cum-Operator of Grade 'D' to Fitter-cum-Operator Grade 'C' being in quite violation of the Cadre Scheme circulated by JBCCI is illegal and unjustified. They are not entitled to any relief.

5. The Opp./Management in its rejoinder has categorically denied the allegation of the Union/workmen, and stated that as Mr. S.M. Sahabuddin was one of the awardees in the Reference No. 27/1978 of the C.G.I.T. No. 1, the benefit of the said award was also granted to him. The washing plant of Jamadoba and the Washing Plant of West Bokaro Collieries are two different establishments with different working conditions. It is alleged that the aforesaid Award was passed on July 10, 1979 for specific workmen and against the particular establishment prior to the Implementation Instruction No. 60 dated 8.7.1986 and the Cadre Scheme for Coal Washing Personnel was formulated by JBCCI with consultation of all the Central Trade Unions in the year 1986. The workmen concerned are placed in a particular category according to the Cadre Scheme formulated by JBCCI. The aforesaid Award is not binding upon the Management of West Bokaro Colliery.

FINDING WITH REASONING

6. In the present Reference WWI A.K. Ganguli one of the workmen for the Union deposed on behalf of the all of them, and MWI Vinay Pandey for the management. According to WWI A.K. Ganguli (Sl. No. 8 of the workmen's list enclosed), the workmen are posted at West Bokaro Colliery under TISCO, they were upgraded in Technical Grade 'D' in Fitter-cum-Operator in 1982, and also placed in Technical Grade E, and whereas the post of Fitter-cum-Operator comes under Technical Grade 'C' which was given to some workmen of Jamadoba Colliery under TISCO over

Self same nature of claim who were provided the Grade 'C' as per the award passed in their favour by the Tribunal No. 1, marked as Ext. W. 1, the Certified Copy thereof of the Award is alleged to have been filed, but only the photocopy of the Award dated 10th July, 1979, rather the Certified Copy of the Judgement dated 6th Feb., 1996 passed by Hon'ble High Court concerned in the L.P.A. No. 79/1988(R) against the Judgement and order dated 9.9.88 passed by Hon'ble Single Bench in CWJC No. 7/1980(R) which has been marked as Ext. W. 1 instead of the said Award. However, it stands no differences at the point of implementation of the Award concerning workmen of Jamadoba as admitted on behalf of the O.P./Management. As such the witness for the Union has claimed for their upgradation and relief based on the award. The witness (WWI) has admitted that the said Award related to workmen posted at Washery Plant under Jharia Division. But he expressed his ignorance of whether Jamadoba and West Bokaro Colliery are in separate division or in the same direction, the time of passing the said Award and its applicability to them and whether the post of Fitter-cum-Operator comes under Cadre Scheme as per JBCCI Circular No. 60/1986, and or if the Cadre Scheme specific the Grade the Fitter-Operator would get, or if their proper placement under Grade 'E' by the Management as per the Cadre Scheme.

7. Whereas the statement of MWI Vinay Pandey, Sr. Manager (HR/IR) for the management is that the Cadre Scheme was finalised at the meeting of the Promotion Policy Committee held on March, 19 and May, 20, 1986, and it was also agreed that the Member Secretary, JBCCI might issue Implementation Instruction in that respect. Therefore, the Implementation Instruction No. 60 dt. 8.7.1986 was issued by the J.B.C.C.I, and was circulated about the Cadre Scheme for Coal Washery Personnel. As per the circulation of the said Cadre Scheme, the existing Cadre Scheme, if any, for this discipline would become in operative simultaneously with the enforcement of this scheme. The Cadre Scheme was framed on the basis of Organisational Set up prevailing in Coal India and its subsidiaries, and TISCO, IISCO and SCCL were allowed to make modification on the same whenever required to suit the local condition without lowering the standard of this Cadre Scheme in consultation with the Union Representative at their level. The West Bokaro Colliery Management circulated a Cadre Scheme for Washery Personnel in respect of Fitter-cum-Operator in consultation with the local Union considering the Cadre Scheme and guidelines circulated by the JBCCI for Fitter-cum-Operator. As per Cadre Scheme the Fitter-cum-Operator are put in Category V, VI and Technical Grade 'C'. The Fitter-cum-Operator in Cat. V will be promoted as Fitter-cum-Operator in Cat. VI on the recommendation of the Departmental Promotion Committee (DPC) on the basis of

the interview. Accordingly, the Fitter-cum-Operator in Category VI will be promoted to Technical Gr. 'C' as per the Cadre Scheme only on the recommendation of Departmental Promotion Committee after holding Trade Test. The said Cadre Scheme came into operation in West Bokaro Colliery in 1986. Under the Scheme there were three Grades of FCOs—Grades V, VI and Technical Grade 'C', and accordingly, all those FCOs who had completed three years were promoted to Grade VI, and thereafter to Technical Grade 'C' on completion of their 4 years as FCOs in Grade VI. According to the Management Witness (MWI), three workers Sukash Kumar, Sidh Nath Kumar and Sridhar Koiri were promoted to Technical Grade 'C' as per the Official Letters of the Management (dt. 4.11.1998 to 17.7.2002) and 10.8.1999- Ext. M.1 series with objection respectively which were accepted by them.

8. Further the statement of MWI is that after the Cadre Scheme since its implementation and acceptance as per agreement at national level was duly operated and accepted for 7 years till then all FCOs were promoted to Grade 'C', the demand of the sponsoring union for upgradation of Fitter-cum-Operator of Grade 'D' to that of 'C' is quite violative of the Cadre Scheme and the guidelines issued by the JBCCI, as the establishments of both the Collieries are different as well as in their operational parameters having difference in the quality of the Coal in both the Collieries. Since S.M. Sahabuddin was in Grade B and one of the workers concerned of Jamadoba related to the Award concerned, so he was given the benefit of Grade 'C'. The witness (MWI) in his cross examination has affirmed that the Tata Company does not follow the provision of NCWA, as it has its own Cadre Scheme for promotion of its employees, and for giving dependant employment, and the Circular of the JBCCI relating to its prevailing over the existing scheme of the Colliery can be filed. With the enforcement of the JBCCI Circular, the management has framed its own Cadre Scheme perhaps in the year 1986 for the promotion of its employees. The Tata company was a member of the JBCCI for the period from March to June, 1985. Though the JBCCI Instruction No. 60 dt. 8.7.1986 was issued to all the Coal Companies to implement the promotion policy as framed by JBCCI except the Tata Company which was given an option for its own Cadre. Though the owner of both the coal Washeries as the Tata Company, they are separate Establishments of the company through transfer of workers from Jamadoba to West Bokaro does not usually happen except in rare cases such that of Mr. Sahabuddin. The wages scale is the same in both washeries. In view of the Award passed in Ref. No. 27/98 by the CGIT-LC (NO. 1), Dhanbad concerning Jamadoba workers there was no sineority between the workers of both coal washeries.

9. Mr. D. Mukherjee, the Learned Counsel for the Union/workmen submits that in the present reference the claim of the workmen is the Technical Grade C in the ground of their working as Fitter-cum-Operator; it is based on the said Award passed in the Ref. No. 27/1978, in which the workmen of Jamadoba had demanded for Technical Grade C on the ground of that the Electro Mechanics were getting Grade 'C'. It is also submitted in his behalf that the management is a member neither of NCWA nor JBCCI and the management has not filed its own Cadre Scheme and if there is any alleged JBCCI Instruction as alleged JBCCI Instruction as alleged to have been followed by the Management, the said Award of the Tribunal is binding upon the management; so these workmen are entitled to Technical Grade 'C'.

10. Whereas in response, Mr. D.K. Verma, the Ld. Counsel for the OP/Management has contended that admittedly the present 167 workmen belong to West Bokaro Colliery Plant of M/s. Tisco Ltd., so their claim is based on the said Award of 1979 in Ref. No. 27/78 related to workmen of Jamadoba Colliery is unsustainable likewise the Award is not binding upon the management, as the both collieries are different establishments of the Management, which has its own independent existence for its Cadre Scheme for the Collieries as per the Instruction No. 60 and guidelines of the JBCCI. Moreover as per Implementation Instruction introduced in 1986, there are three Grades, namely, categories V, VI and 'C' for which the promotion is effected through Departmental Promotion Committee (DPC). In support of his argument, Mr. Verma has relied upon the case of New Delhi Municipal Council Vs. Pan Singh & Ors reported in (2007) 2 S.C.C. (L & S) 398 (A) (D.B.). The facts of the ruling is that there were posts of Meter Reader and Shift Incharge in Electricity Department concerned; pay scale of Shift Incharge was higher than that of Meter Reader 17 Seniormost Shift Incharge opted to become Meter Readers for certain reasons, and their higher pay scale was protected purely as an adhoc measure which was to be personal to them, but certain other Meter Readers who were similarly situated raised the dispute before Industrial Tribunal, which also granted benefits of higher pay to them; direction in said Award confirmed only to those who were in service at the relevant time, i.e., before cut off date, and said employees, thus, formed a class by themselves, and as the Respondents have been appointed after the cut off date, so it was held that they could not be treated alike with others; hence, their claim for higher pay scale in ground of party was not sustainable in reference to Arts. 39(d) & 14 of the Constitution of India (Paras 11 to 13).

11. On perusal and consideration of the materials on the case record, I find the facts as under:

Firstly admittedly, the 167 workmen belong to West Bokaro Colliery and the 45 Awardee workmen as per the Award dt. 10th July, 1979 passed in Ref. No. 27/278 were of Jamadoba Washing Plant. Though both collieries have their different establishments, yet they are under the same TISCO Management;

Secondly: The aforesaid Award being in person was binding upon the TISCO Management in respect of its concerned 45 awardee workmen of Jamadoba Washing Plant only.

Thirdly, The TISCO has its own independent industrial establishment having its own Certified Standing Orders under Sec. 5 (3) of the Industrial Employment Standing Orders Act, 1946. As per the Implementation Instruction No. 60 dt. 8.7.1986 (hereinafter referred to as I.I.No.) issued time to time by the JBCCI related to Implementation of the Agreement, over promotion Policy Committee specifies as such:

"It was also agreed that Member Secretary III JBCCI may issue implementation Instruction in this respect."

The I.I.No. under its cause of 'Repeal, Saying etc. lays down as under:

- (i) The existing Cadre Scheme if any, for this discipline shall become in-operative simultaneously with the coming into force of this Scheme.
- (ii) This Cadre Scheme has been framed on the basis of the organisational set up prevailing in Coal India and its subsidiaries and TISCO, IISCO & SCCL will be allowed to make modification in the same whenever required to suit the local condition without lowering the standard of this cadre scheme in consultation with the Union Representative at their level."

All the aforesaid facts evidently corroborate the proved fact as stated by MWI Vinay Pandey that the Tata Company is not bound to follow the provision of NCWA.

Lastly, with the introduction of the present Cadre Scheme for Coal Washery Personnel (Operational) w.e.f. 8.7.1986 the then Cadre Scheme related the claim of these workmen for upgradation from Gr. 'D' (Tech.) to Gr. 'C' (Tech.) simultaneously stood inoperative. Moreover, their such claim based on the aforesaid Award dt. 10th July, 1979 can never sustainable in eye of laws and facts both.

In view of the findings, the plea of Mr. Mukherjee, Learned Counsel for the Union/workmen seems not plausible.

12. In result, it is adjudicated in the terms of the reference as such:

It is hereby

ORDERED

That the Award be and the same is passed that the demand of the TISCO Workers' Union from the management of the West Bokaro Colliery, Washing Plant of M/s. TISCO Ltd. to upgrade 167 (as per list) from Gr. "D" (Tech.) to Gr. "C" is quite unjustified and baseless. Hence, the workmen are not entitled to any relief from any date.

KISHORI RAM, Presiding Officer

List of Workmen

Sl. No.	Name	A.No.	Signature
1	2	3	4
1.	V.R. Das	268271	
2.	S. Samad	095348	
3.	B.K. Mahanty	095411	
4.	Rabinbra Sahu	095448	
5.	Ragunath Ray	268174	
6.	A.K. Ganguly	268148	
7.	Johan Moharuru	095459	
8.	S.K. Bhattacharya	268190	
9.	G.C. Sutradhar	095693	
10.	Mantu Bhar	268189	
11.	Nawal Kishor Singh	268009	
12.	S.S. Yadav	268007	
13.	Mauotiar Vishwakarma	268220	
14.	Prabhat Kumar Pant	266174	
15.	N. Srinivas Rao	268195	
16.	S.C. Banik	095612	
17.	Chonhas Lakra	265759	
18.	S.K. Rakesh	266170	
19.	Sri Ram Ojha	263779	
20.	Amritlal Gops	266465	
21.	देवचन्द्रराम	268155	
22.	D.L. Puri	95741	
23.	Mandip Singh	268005	
24.	P.D. Prasad	268014	
25.	लालचन्द्रराम	268175	
26.	R.N. Rana	268154	
27.	Prayag Sao	263717	
28.	Shah Alam	266218	
29.	Baliram Yadav	268187	
30.	Sachida Nand Prasad	268272	
31.	Y.S. Champia	095635	
32.	Nauleshwar Singh	6156	
33.	सेराफिलबाड़ा	4227	

1	2	3	4	1	2	3	4
34.	B.B. Upadhyaya	6518		81.	M. Topno	96370	
35.	Ganesh Singh	2928		82.	Chandeswar Singh	26857	
36.	Ramachandra Singh	7213		83.	Madhab Ch. Mahakud	95425	
37.	Rashid Hussain	8952		84.	A.K. Mohanty	93346	
38.	Rajdeo Pandey	4413		85.	Yogendra Jha	264374	
39.	Suresh Prasad	8958		86.	Deodeep Prasad	269154	
40.	Y.K. Pandit	8046		87.	Munesher Singh	263689	
41.	D. Karmali	7893		88.	Damoder Prasad	263186	
42.	Amrit Mahto	5417		89.	Ajeet Kumar	268959	
43.	Y.N. Yadav	8158		90.	H.D. Mobarak Ansari	268966	
44.	Hiraman Mahto	8173		91.	Sanjay Kr. Sharma	268951	
45.	M.K. Jha	268011		92.	P.C. Vishkarma	268167	
46.	Anil Kr. Sinha	263846		93.	Harudhan San	263734	
47.	Shambhu Sah	268018		94.	Jhandu Mahato	263331	
48.	Sanju Bhan Singh	268199		95.	Ramanand Singh	3752	
49.	A.B. Khan	266152		96.	Onkar Nath singh	8960	
50.	Sita Ram	264357		97.	Mobuk	5837	
51.	Badruddin	264697		98.	C.B. Mishra	3778	
52.	Raghunandan Pant	263690		99.	Rajesh Kr. Singh	9149	
53.	Ashok Singh	264908		100.	Nagendra Pd. Singh	263813	
54.	Ishtfyaque Ahmed	264359		101.	Deoki Ram	264601	
55.	Shashi Bhushan Mishra	263777		102.	S.C. Kumar	268025	
56.	Ranjeet Singh	766468		103.	S.L. Rout	268008	
57.	M.D. Taslim	268177		104.	Nago Sao	5148	
58.	Kishori Vishwakarma	265994		105.	N. Saw	3607	
59.	O.P. Lama	268164		106.	Jayanto Kr. Ghosh	8961	
60.	D.N. Giri	264367		107.	Uday Narayan	6535	
61.	Anup Kr. Sinha	264318		108.	Deepak Bose	8964	
62.	Hira Pal Bhagot	264234		109.	Lorance Kojur	3692	
63.	S.K. Bose	263801		110.	C.S. Mishra	8021	
64.	John. A. Horo	96743		111.	Nasim Khan F/Inch.	263817	
65.	Hiteshwar किशनन	268708		112.	Phool Chand Ram	266166	
66.	B.S. Srivastava	266153		114.	Ashok Kumar Singh	268064	
67.	R.R. Verma	268957		115.	Munshi Vishwakarma	266167	
68.	Damoder Prasad	266529		116.	Santoshi Mahato	265748	
69.	Brahmdeo Ram	266467		117.	Jagan Ram Sharma	266578	
70.	रायसदीव	264279		118.	Chandradeo Yadav	263665	
71.	Hanumant Singh	7626		119.	Shailinder Patwari	62301	
72.	Damnik Guria	4233		120.	Mohiuddin Ansari	263751	
73.	Talo Manjhi	3716		121.	L.O.P. Narayan	266158	
74.	R.R. Mandal	8950		122.	Kedar Puri	267490	
75.	Sonaram Hurad	95287		123.	G.P. Thakur	268062	
76.	P. Shene	265599		124.	S.K. Sarkar	266150	
77.	Shyam Mandan Kumar	266161		125.	P.K. Mandal Foreman	095896	
78.	J.K. Sirlal	268047		126.	S.T.H. Razvi	268004	
79.	K.G Pathak	266187		127.	D.K. Sinha	268196	
80.	C.D. Singh	264194		128.	Kamleshwar Singh	265538	

1	2	3	4
129.	R.N. Bhattacharjee	266154	
130.	Anup Kr. Sinha	268229	
131.	D.R.P. Das	268016	
132.	J.K. Sen Gupta	5729	
133.	Hari Singh	3770	
134.	M.D. Rajesh	6767	
135.	Achutanand Singh	6163	
136.	D.K. Thakur F. Inch.	3818	
137.	R.R. Thakur Foreman		
138.	Sodhen Sarkar F.C.T.	268172	
139.	B.K. Sinha F.C.O.	264986	
140.	Sridhar Koiry F.C.O.	265543	
141.	R.P. Singh Foreman	268024	
142.	P.N.P. Singh F.C.O.	268022	
143.	Sidhanth Kr. F.C.O	266595	
144.	B.N. Das par P.C.O.	093096	
145.	Bali Singh F.C.O.	266165	
146.	Seopujan Ram F.C.O.	265153	
147.	Arjun Pd. F.C.O.	268020	
148.	M. Mahato F/I	93611	
149.	Rameshwar Rao F.C.O.	265749	
150.	Santosh Singh F.C.O.	268108	
151.	Jay Prakash Singh F.C.O.	265752	
152.	Md. Farooqe F.CO	264694	
153.	Sucha Singh F.CO	265559	
154.	Md. Zakiuddin F.C.O.	266145	
155.	Sunil Khalkho F.C.O.	266146	
156.	Md. Hussain Forman	095396	
157.	Pankaj Kr. Sinha F.C.O.	268168	
158.	Nathu Sharma F.C.O.	268169	
159.	Harindar Prasad F.C.O.	266173	
160.	Subhas Ch. F.C.O.	265841	
161.	अनील विश्वकर्मा F.C.O.	268221	
162.	Bijay Kr. Singh F.C.O.	265534	
163.	Baldeo Raut F.C.O.	265747	
164.	A.P. Singh F.C.O.	266160	
165.	P. Salvam F.C.O.	268171	
166.	Krishan Kumar F.C.O.	263703	
167.	Rajendra Singh H. Forman	263839	

नई दिल्ली, 11 दिसंबर 2013

कांग्रेस 2758.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्पाईटजैट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या

135 का 2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/12/2013 को प्राप्त हुआ था।

[सं. एल-11012/23/2013-आईआर (सी एम-I)]
एम् के० सिंह, अनुभाग अधिकारी

New Delhi, the 11th December, 2013

S.O. 2758.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 135/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No 1, New Delhi as shown in the Annexure, in the industrial dispute between the management of Spice Jet Ltd., and their workmen, received by the Central Government on 11/12/2013.

[No. L-11012/23/2013-IR(CM-I)]
M.K. SINGH, Section Officer.

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. I,
DELHI**

I.D.No. 135/2013

Shri Wasee Ahmed,
C/o Yadav Apartment, RZB-56,
Flat No. 402, near Gurudwara,
Mahaveer Enclave, Palam,
New Delhi 110045Workmen

Versus

The Vice President (HR),
Spice-Jet Ltd.,
Steel Gole Bus Stop, Terminal I,
I.G.I. Airport,
New Delhi 110037Management

AWARD

Shri Wasee Ahmed joined services with Spice-Jet Ltd. (hereinafter referred to as the management) as Technician on 11.06.2007. He served the management continuously till 10.05.2012, the date when his services were dispensed with. He raised a demand for reinstatement in service, which demand was not conceded to. Ultimately, he raised a dispute before the Conciliation Officer, Since his claim was contested, hence conciliation proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to this Tribunal for adjudication vide order No. L-11012/23/2013/IR (CM-I), New Delhi dated 13.08.2013 with the following terms:

"Whether action of the management of Spice-Jet Limited in terminating services of Shri Wasee Ahmed, S/o Shri Abdul Khalique, ex-Technician, with effect from 10.5.2012 is justified and legal? To what relief

the concerned workman is entitled to and from which date?

2. In the reference order, the appropriate Government command the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute.

3. Notice was issued to the claimant calling upon him to file his claim statement, in response to which notice, claimant appeared before this Tribunal. He opted not to file claim statement. On the other hand, he made a statement detailing therein that he had settled his grievances with the management, after receipt of a sum of Rs. 50,765.90 towards full and final settlement of his duties. Contents of submissions made by the claimant are reproduced thus:

"I have settled my grievances with the management. The management had paid a sum of Rs. 50765.90 to me towards full and final settlement of my dues towards notice pay, retrenchment compensation, wages, leave encashment, bonus etc. I have given up my claim for reinstatement in service with the management. Now nothing remains due to me from the management. An award may be passed accordingly."

4. In view of the above submissions made by Shri Wasee Ahmed, it emerged over the record that the claimant had settled his grievances with the management. He had received a sum of Rs. 50,765.90 towards full and final settlement of his duties for notice pay, retrenchment compensation, wages, claim towards leave encashment, bonus etc. He has given up his claim for reinstatement in service with the management. Resultantly, it is evident that dispute between the parties has subsided. Claimant is not entitled to relief of reinstatement in service. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

November 22, 2013

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 11 दिसम्बर, 2013

का०आ० 2759.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं इण्डिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, मुम्बई के पंचाट (संदर्भ संख्या 27 का 2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/12/2013 को प्राप्त हुआ था।

[सं० एल-11012/23/2006—आई० आर० (सीएम-I)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 11th December, 2013

S.O. 2759.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 27/2006 of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure, in the industrial dispute between the management of Air India Limited, and their workmen, received by the Central Government on 11/12/2013.

[No. L-11012/23/2006-IR(CM-I)]
M. K. SINGH Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1 MUMBAI

**Present: JUSTICE G. S. SARRAF PRESIDING OFFICER
REFERENCE NO. CGIT-27 OF 2006**

Parties : Employers in relation to the management of Air India Ltd.
And
Their workman M.J. Kurade

Appearances :

For the Management : Mr. Lancy D'Souza,
Representative

For the Workman : Mrs. P.S. Shetty, Advocate

Mumbai, dated 04th day of April, 2013

AWARD

This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of reference given in the schedule are as follows:

"Whether the action of the management of Air India Limited, Mumbai, in dismissed Shri M.J. Kurade from the services w.e.f. 15.6.05 is just, fair & legal? If not, to what relief is the concerned workman entitled?"

2. As per the order-sheet dated 15.3.2012 the workman M.J. Kurade has expired. Thereafter learned counsel for the workman has sought a number of adjournments for filing application to bring legal representatives of the deceased workman on record. Learned counsel for the workman has not filed any such application even today.

3. Since the workman has expired and no application has been filed to bring his legal representative on record, therefore, these proceedings abate.

4. Award is passed accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2760.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 जनवरी, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप धारा-(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:

केन्द्र	क्षेत्र के अंतर्गत आने वाले निम्न राजस्व गांव
काट्टूर क्षेत्र (सिड्को वूमेन्स इंडस्ट्रीयल पार्क)	1. काट्टूर
अंबत्तूर तालुक	2. वेल्लनूर
तिरुवल्लूर जिला	

[सं० एस-38013/80/2013-एस०एस० 1]
जार्जकुट्टी टी० एल०, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2760.—In exercise of the Powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamil-Nadu namely:—

Centre	Area Comprising the Revenue Villages of
Kattur area (SIDCO Women's Industrial Park) Ambattur Taluk, Thiruvallur District	1. Kattur 2. Vellanur

[No. S-38013/80/2013-S.S.I]

GEORGEKUTTY T.L. Under Secy.

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2761.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 जनवरी, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4(44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप धारा-(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध राजस्थान राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे अर्थात्:

और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध राजस्थान राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:

क्रम सं	राजस्व गांव का नाम	तहसील का नाम	जिला
1.	हमीरगढ़ ओच्याड़ा तखतपुरा, कान्ना खेड़ी	हमीरगढ़	भीलवाड़ा

[सं० एस-38013/82/2013-एस०एस० 1]
जॉर्जकुट्टी टी० एल०, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2761.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Rajasthan namely:-

Sl. No.	Name of Village/area	Tehsil	District
1	Hamirgarh, Qjayada, Takhatpura, Kanya Kheri	Hamirgarh	Bhilwara

[No. S-38013/82/2013-S.S.I]
GEORGEKUTTY T.L., Under Secy.

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2762.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 जनवरी, 2014 को उस तारीख के रूप में नीयत करती है, जिनको उक्त अधिनियम के अध्याय-4(44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप धारा-(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध राजस्थान राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे अर्थात्:

क्रम सं	विवरण	तहसील का नाम	जिले का नाम
1.	जिला दौसा, तहसील दौसा के निम्नांकित राजस्व ग्राम के अन्तर्गत आने वाले क्षेत्रः— बापी, मित्रपुरा, भांकरी, भांकरोटा, बिचलवास, महेश्वरा खुर्द, हरिपुरा, मोडापट्टी, खुरी कर्ला, मालगवास, रोहडा, खुरी खुर्द, सुशेशनपुरा, चावांडेडा, रायपुरा, रुगली, बरखेडा, भण्डाना, दलेलपुरा जीरोता खुर्द, सिमलकी, जीरोता कर्ला, दौसा कर्ला, नामोलाव, दौसा खुर्द, बाढ दौसा, चक दौसा, सुरजपुरा, गणेशपुरा, खेडली	दौसा	दौसा

[सं० एस-38013/83/2013-एस०एस० 1]

जॉर्जकुट्टी टी० एल०, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2762.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Rajasthan namely:—

Sl.No	Particular	Name of Tehsil	Name of District
1.	The following Revenue Villages falling within the limit of Dausa Tehsil, Distt.- Dausa. Bapi, Mitrapura, Bhankri, Bhankrota, Bichalwas, Maheshwara khurd, Haripura, Modapatti, Khuri Kala, Malagwas, Rohada, Khuri Khurd, Sudarshanpura, Chawandeada, Raipura, Roogli, Barkheda, Bhandana, Dalelpura, Jirota Khurd, Simalki, Jirota Kalan, Dausa Kalan, Namolav, Dausa Khurd, Bad Dausa, Chak Dausa, Surajoura, Ganeshpura, Khedli,	Dausa	Dausa

[No. S-38013/83/2013-S.S. I]
GEORGE KUTTY T.L., Under Secy.

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2763.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुवंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट संदर्भ संख्या 101/97 को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/12/2013 को प्राप्त हुआ था।

[सं० एल-12012/87/97-आई आर (बी-II)]
रवि कुमार, अनुभाग अधिकारी

New Delhi, the 16th December, 2013

S.O. 2763.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 101/97) of the Cent.Govt.Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 16/12/2013.

[No. L-12012/87/97 - IR (B-II)]
RAVI KUMAR, Section Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 101 of 1997

BEWEEN-

Sanjeev Kumar Son of Sri Heera Lal Kanoujia, resident of 459 Sadar Bazar, Bareilly U.P.

AND

The Regional Manager, Punjab National Bank, Regional Office, 156 Civil Lines, Bareilly.

AWARD

- Central Government, Mol New Delhi, *vide* notification No. L-12012/87/97/I.R. B-II dated 08.07.97 has referred the following dispute for adjudication to this tribunal—
- Whether the action of the management of Punjab National Bank Bareilly in terminating the services of Sanjeev Kumar Kanojia ex-daily paid peon *w.e.f.* 13.09.95 is legal justified? If not to what relief the workman is entitled to?
- The case of the workman is that he continuously worked as a peon at BI Bazar Branch Bareilly of the opposite party Punjab National Bank from December, 86 to 12.09.95 as daily rated worker. Thereafter his services were terminated in breach of provisions of section 25F of the Act without payment of retrenchment compensation and notice pay.
- Bank has refuted the claim of the workman on the ground that the workman was not engaged as peon. Instead he used to be engaged according to need of work. He did not complete 240 days in any calendar year and there had been no breach of section 25F of the Act, accordingly the workman is not entitled for any relief as claimed by him.
- Workman has also filed rejoinder in which nothing new has been mentioned in it.
- The workman per application dated 11.11.97 has summoned the documents from the management *viz.* 1. Postage Distributing Register for the period December 1996 to 12.09.95, Payment register for the above period, Cash Deposit dated 31.07.95, Extension Counter ASC School dated 07.06.95, Inward and outward BR Voucher dated 29.05.95 and Dak Register from December 86 to 12.09.95. The

workman has also filed photocopies of the documents which were duly marked as Ext. W-1 to Ext. W-48.

7. Whereas the workman examined himself as w.w. 1, the management examined Sri A.K. Mehrotra as M.W. 1 in support of their respective cases.
8. After analyzing the factum of the case and evidence of the parties my learned predecessor after relying upon the own admission of the opposite party has categorically held that the workman was working as a peon in the bank. It was also held that workman has failed to prove the fact of violation of the provisions of section 25 F and accordingly answered the reference *vide* award dated 13.07.98 against the workman.
9. The workman assailed the award of the tribunal by filing a Civil Misc. Writ Petition No. 30094 of 1998 before the Hon'ble High Court, Allahabad. The Hon'ble Court *vide* judgment and order dated 04.04.12 has set aside the award of the tribunal and remanded back the case to this tribunal for deciding the matter a fresh after giving opportunities to the parties
10. On receipt of the certified copy of the order and judgment of the Hon'ble High Court, this tribunal *vide* order dated 03.05.12 issued registered notices to the parties for their appearance before this tribunal. Application moved by the applicant for adjournment was rejected *vide* order dated 29.01.2013 on the ground that the case is old one and the case was reserved for award.
11. Again the applicant appeared on 07.02.13 and moved application for recalling the order dated 29.01.2013, which was not opposed by the other side therefore, the application was allowed the workman was given opportunity to give his evidence. On the other hand the opportunity give evidence by the opposite party was closed by order dated 26.02.2013 and the case was reserved for Award.
12. First of all it will be seen as to whether the workman was engaged by the bank. On this point the workman in his evidence has stated that from December 86 to 12.09.95 he continuously worked as peon in the bank and when he raised his voice of becoming regular and permanent employee of the bank he was removed from the service of the bank. In his cross examination he denied the suggestion of the bank that he was engaged for supplying the drinking water in the bank. He also admitted the fact that no appointment letter was issued to him by the bank. The workman was again re-examined as witness with the permission of the Tribunal wherein it was adduced by him that at the time of termination of his service no notice pay or retrenchment compensation was offered to him by the bank. He has proved paper No. 7/24 to 7/39 which is the photocopy of dispatch register. He has also proved paper No. 7/40 to 7/49 which is the photocopy of Dispatch Register, He was used to sign these register as a token of having received the Dak. Paper No. 7/40 bears my signature which has been encircled by the Court. He goes on to state that he had worked for more than 240 days of service on one calendar almost in each year during the period he remained in the employment of the bank. Based on paper No. 9/2 and 9/12 the witness has denied the suggestion of the bank that he had not completed 240 days of continuous service. He has further challenged the authenticity of the working chart prepared and filed by the bank in the case. It is also denied by the witness that he was simply used to supply the drinking water. He has filed copy of dispatch register in the case as a piece of evidence which was provided to him by the bank.
13. On the other hand the witness of the bank has denied the fact that the workman was ever engaged as a peon or work of peon was ever taken by him. Witness goes on to state that in his branch there was acute shortage of drinking water, therefore, to overcome with the drinking water, the workman was engaged. The management witness in his cross examination after seeing the record Ext. W-25, halfheartedly stated that whenever regular peons were not available in the branch work of peon might have taken from the workman and the Dak Register finds the name of the workman.
14. Opposite party in their reply has not disputed the fact that the workman was not engaged in the bank. It is specifically admitted by the bank that the workman was engaged intermittently to do purely casual jobs in the branch for specified period and as such engagement came to an end automatically as and when the specified object accomplished or time elapsed.
15. Therefore, after giving careful consideration to the facts and circumstances coupled with the evidence of the parties in the case, the tribunal is of the firm view that the workman was engaged by the management who some time worked as a daily wager and some time as a peon. This fact finds support from the documentary evidence filed by the workman. Therefore, it cannot be denied that the workman was never engaged by the bank.
16. It may also be pointed out here that the opposite party has palpably failed to bring out from the mouth of the workman during his cross examination

that he had not rendered continuous service of 240 days or more during preceding 12 calendar months from the date of his termination. Therefore, it is held that the workman has worked for more than 240 days of continuous service prior to his termination and thereby a legal right has been accrued in this favour to get notice, notice pay or retrenchment compensation from the opposite party which admittedly has not been done in the case by the bank.

17. Workman has categorically stated in his evidence that the opposite party bank has not complied with the provisions of section 25F of the Act, therefore, it is held that the workman has been successful in establishing his case before the tribunal by adducing overwhelming evidence on the point that he has worked as a daily rated worker as well as a peon in the bank, he has completed 240 days of continuous service prior to the date of his termination preceding 12 calendar months and that no compliance of the provisions of section 25F of the Act has been made by the bank in his case, therefore, at any rate the action of Punjab National Bank in terminating the services of workman cannot be held to be justified and legal.
18. Accordingly it is held that the workman is entitled for reinstatement.
19. Reference is therefore, answered accordingly in favour of the workman and against the opposite party.

RAM PARKASH, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

कांआ० 2764.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डिविशनल इंजीनियर टेलीकॉम, भोपाल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या - 105/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-12-2013 को प्राप्त हुआ था।

[सं० एल-40012/52/2001-आईआर (डीयू)]

पी० के० वैणुगोपाल, अनुभाग अधिकारी

New Delhi, the 16th December, 2013

S.O. 2764.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 105/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Divisional Engineer (Telecom),

Bhopal and their workman, received by the Central Government on 13/12/2013

[No. L-40012/52/2001-IR(DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/105/2001
PRESIDING OFFICER : Shri R.B. Patle:

Shri Udaynath Ram,
S/o Shri Phoolchand Ram
No. 94, Gandhinagar Colony,
Near Kasturba Hospital,
Bhopal (MP)

...Workman

Versus

Asstt. Engineer,
Telecom (RE),
RE Project, E-3/179,
Area Colony, Bhopal
Divisional Engineer (Telecom),
O/o GMT, CTO Building,
TT Nagar,
Bhopal (MP)

....Management

AWARD

Passed on this 1stday of October, 2013

1. As per letter dated 4-5-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-40012/52/2001-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Divisional Engineer (Admn.), Telecom, Bhopal in terminating the services of Shri Udaynath Ram S/o Shri Phoolchand Ram w.e.f. 2-2-98 is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman filed statement of claim at Page 2/1 to 2/8. Case of Ist party workman is that he was working with IIInd party from 15-9-86 to 31-9-87, thereafter from December 87 to April 95. He had completed 240 days during each of the calendar year. His services were discontinued w.e.f. April 1995. He was retrenched without notice in violation of provisions of I.D. Act. That workman was re-induced with the management from 1-5-95 till 1-5-96. Again his services were discontinued. During above said period, workman was working

in office of Sub-Divisional Engineer, Govindpura Exchange, Bhopal. That while he was working at CRLU Exchange under the jurisdiction of Asstt. Engineer (Cables), Arera Colony, Bhopal, his services were terminated from 02-02-98 without giving notice. That he had worked for more than 240 days during preceding calendar years. His services were terminated in violation of Section 25-F of I.D. Act. The workman has given breakup of his working days in 1987-283 days, 1988-266 days, 1989-215 days, 1990-187 days, 1991-240 days, 1992-312 days, 1993-251 days, in 1994-334 days and in 1995-120 days. He was not given one month notice before termination of his services. Principles of natural justice were not followed. His services were not regularized. IIInd party acted arbitrarily. On such grounds, Ist party is praying for reinstatement with consequential benefits.

3. IIInd party filed Written Statement denying that workman completed 240 days continuous service, he denied that termination of his services is in violation of provisions of I.D. Act. That workman was never employee of BSNL. He was engaged purely on casual basis for short term period. That the work was of casual nature. Workman was engaged subject to availability of work. There was no question of termination of his service. There was also no question of regularization of service of the workman. That workman had worked under Railway Electrification Project. He had not worked in Telecom District, Bhopal. That Railway Electrification Project at Bhopal was already closed relying on ratio held in various cases. IIInd party submits that workman is not entitled for regularization of his service.
4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of Divisional Engineer (Admn.), Telecom, Bhopal in terminating the services of Shri Udaynath Ram s/o Shri Phoolchand Ram w.e.f. 2-2-98 is legal?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Relief prayed by workman is rejected.

REASONS

5. Though workman is challenging termination of his services from 02-02-98, statement of claim is filed by him. The claim of Ist party workman is opposed by the management. Workman failed to adduce any evidence to substantiate his claim. Evidence of workman was closed on 07-04-2011. Management filed affidavit of witness Shri S.M. Garg, Divisional Engineer. Witness of the management has stated that workman was engaged purely on daily wages subject to availability of work. That Railway Electrification Project was a short term project given to the deptt. by Railway. That the workman is not entitled for regularization. Management's witness Shri A.K. Balpande filed affidavit of evidence. He was not cross-examined. There is absolutely no evidence to establish that termination of services of workman is illegal. I, therefore record my finding in Point No. 1 in Affirmative.

6. In the result, award is passed as under:—

- (1) Action of the management of Divisional Engineer (Admn.), Telecom, Bhopal in terminating the services of Shri Udaynath Ram S/o Shri Phoolchand Ram w.e.f. 2-2-98 is proper.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

कांआ० 2765.—औद्योगिक विवाद अधिनिधम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार टेलिकॉम डिस्ट्रिक्ट इंजीनियर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 45/2002) को प्रकाशित करती है, जो केंद्रीय सरकार को 13-12-2013 को प्राप्त हुआ था।

[स० एल-40012/307/2001-आई आर (डीयू)]

पी० क० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 16th December, 2013

S.O. 2765.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 45/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of O/o TDE, and their workmen, received by the Central Government on 13/12/2013.

[No. L-40012/307/2001-IR (DU)]

P.K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/45/2002

Presiding Officer: Shri R.B. PATLE

Shri Rameshchandra, S/o Shri Ranjeet Singh, Vill & PO Bheelkhedi, Tehsil Shajapur, ShajapurWorkman
Versus	
The Telecom District Engineer, O/o TDE, ShajapurManagement

AWARD

Passed on this 1st day of October, 2013

- As per letter dated 25-2-2002 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per Notification No. L-40012/307/2001-IR (DU). The dispute under reference relates to:

"Whether the action of the management of Telecom Distt. Engineer, Shajapur in terminating the services of Shri Rameshchandra S/o Shri Ranjeet Singh *w.e.f.* December 1997 is justified? If not, to what relief the workman is entitled for?"

- After receiving reference, notices were issued to the parties. 1st party workman filed Statement of claim at page 4/1 to 4/2. Case of workman is that he had worked for more than 240 days in establishment of 2nd party. Their services were terminated without notice. He was not paid retrenchment compensation, principles of last come first go was not followed. Termination of his service is in violation of Section 25-F of I.D. Act. He prays for reinstatement.
- 2nd party filed Written Statement at Page 6. Claim of 1st party workman is denied. It is submitted that workman had not completed 240 days continuous service, no question arises of terminating his services. There was no question for payment of retrenchment compensation. That the workman did not work in the concerned division. There was no question of obtaining prior

permission. Violation of section 25-H, G of I.D. Act is denied. 2nd party prays for rejection of claim of workman.

- Considering pleading on record, the points which arise for my consideration and determination are as under. My finding are recorded against each of them for the reasons as below :—

(i) Whether the action of the management of Telecom Distt. Engineer, Shajapur in terminating the services of Shri Rameshchandra S/o Shri Ranjeet Singh <i>w.e.f.</i> December 1997 is legal?	In Affirmative
(ii) if not, what relief the workman is entitled to?	"Relief prayed by workman is rejected."

REASONS

- Though the workman is challenging legality of termination of his service, he has not adduced any evidence. Evidence of workman is closed on 10-12-2010. Management produced affidavit of evidence of management's witness Shri Bhagchand Joshi. Witness of management has stated that 1st party workman was never engaged by the management at office of TDM, Shajapur. Claim of 1st party workman for regularization in the Deptt. is fabricated. Workman is not entitled to relief prayed by him.
- In his cross-examination, management's witness says payment of wages of worker is made by HCL and record is maintained by the administration. There is no record relating to the workman. That he had perused the record. Any record is not found of the workman. Suggestion is denied by management's witness in his cross-examination that workman Rameshchandra was continuously working from 1984 to 2007. That workman himself has not adduced any evidence. Thus there is no evidence on record that termination of service of workman is in violation of Section 25-F, G & H of I.D. Act. I record my finding in Point No. 1 in affirmative.
- In the result, award is passed as under:—
 - Action of the management of Telecom Distt. Engineer, Shajapur in terminating the services of Shri Rameshchandra S/o Shri Ranjeet Singh *w.e.f.* December, 1997 is proper.
 - Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2766.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार टेलिकॉम डिस्ट्रिक्ट मेनेजर बीएसएनएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 67/2004) को प्रकाशित करती है, जो केंद्रीय सरकार को 13-12-2013 को प्राप्त हुआ था।

[सं० एल-40012/239/2003-आईआर (डीयू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 16th December, 2013

S.O. 2766.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 67/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Cour, Jabalpur as shown in the Annexure, in the industrial dispute between the management of BSNL, O/o the TDM, and their workman, received by the Central Government on 13/12/2013.

[No. L-40012/239/2003-IR (DU)]
P.K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/67/2004

Presiding Officer: SHRI R.B. PATLE

The Divisional Secretary,
National Union of Telecom Employees Line Staff &
Group D Mundla Nayata (Palda),
Indore Workman

Versus

The Telecom District Manager,
BSNL, O/o TDM,
Ratlam Management

AWARD

(Passed on this 12th day of November, 2013)

- As per letter dated 7-6-2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/239/2003-IR(DU). The dispute under reference relates to:

"Whether the action of the management of TDM, Ratlam in terminating the services of Shri Shobarm S/o Shri Prabhulal Choudhary w.e.f. 31-1-90 is justified? If not, to what relief the workman is entitled for?"

- After receiving reference, notices were issued to the parties 1st party workman filed Statement of claim at Page 6/1 to 6/3. The case of 1st party workman is that he was working from 1984 till January, 1990 with 2nd party. His services were terminated from 01-02-90. He was not served with notice, he was not paid retrenchment compensation, termination of his services is in violation of Section 25-F of I.D. Act. Principles of last come first go was not followed. Termination of his services is in violation of Section 25-G of I.D. Act, He has filed Petition No. 499/95 before CAT, Jabalpur. His petition was rejected for lack of jurisdiction. He was given liberty to approach appropriate forum. After following conciliation proceedings, the dispute is referred. On such contentions, he prays for reinstatement with consequential benefits.
- 2nd party filed Written Statement at Page 7/1 to 7/3. Preliminary objection is raised that the dispute is referred after 10 years. 1st party workman was initially appointed in separate establishment under the Sub Divisional Officer, Phones Ratlam as well as SDOT Mandsor. Thereafter the workman voluntarily left the work. Other contentions of workman are denied. It is denied that the workman was terminated in violation of Section 25-F, G of I.D. Act, completion of 240 days is denied. According to 2nd party, it was work of deptt. after completion of work, work was transferred to other place. The dispute is not tenable, 2nd party prayed for rejection of claim.
- Workman filed rejoinder at Page 8/1 to 8/3 reiterating his contentions in Statement of Claim. That he had completed more than 240 days continuous service preceding his termination. He was not paid retrenchment compensation. He was not served with notice of termination.
- Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of TDM, Ratlam in terminating the services of Shri Shobarm S/o Shri Prabhulal Choudhary w.e.f. 31-1-90 is justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

REASONS

- Workman is challenging termination of his service in violation of Section 25-F, G of I.D. Act that he had completed 240 days service. He was working

with IIInd party from 1984 till January, 1990. IIInd party has pleaded that the dispute is referred after 10 years is not tenable. The workman had challenged termination of his service filing petition before CAT, Jabalpur, copy of order is produced. Therefore the delay in pursuing reference cannot be the ground for refusal of claim. In Para-4 of the order passed by CAT, there is clear observation that the time consumed before Tribunal should be taken into consideration for the condonation of delay under the provision of Section 5 read with Section 14 of the Limitation Act, 1963.

7. The workman filed affidavit of his evidence claiming that he was working more than 240 days prior to termination of his services on 1-2-1990. The cross-examination of workman shows appointment letter was not given to him. He was doing work of laying telephone lines and electric poles. He had worked in Ratlam Division. After completion of work, his services seems to be discontinued for 2-4 days. He was discontinued from work in February, 1990, he has not produced documents. It is denied that after completion of project, his services came to end. It is denied that he has not completed 240 days service.

8. Management filed affidavit of witness Shri P.K. Jain supporting contentions of management that workman has not completed 240 days continuous service. In his cross-examination, witness of management says that he is working at Ratlam from 1-1-2007. Workman did not work under him. He has not produced any documents relating to the case. He denies that project work still continued. The management's witness has stated that payment of retrenchment compensation was not found necessary. He denied suggestions that workman completed 240 days continuous service.

9. Documents are produced. In Exhibit W-1 67 days are shown from August 1986 to March, 1988, in W-2 working days of workman are shown 405 days. The services of workman were discontinued from end of January 1990. Therefore the period of 12 calendar months needs to be considered from December, 1989. In document Exhibit W-2 & W-3,W-4 the working days are shown comes more than 240 days preceding termination of his service. Therefore workman is covered under Section 25(B) of I.D. Act. The notice for termination of services was not issued, retrenchment compensation is not paid to workman therefore the termination of services is in violation of Section 25-F of I.D. Act.

10. Council for IIInd Party submitted written notes of argument. Copy of citation in case of Secretary, State of Karnataka and others versus Umadevi and others is also submitted. The ratio held in the case does not cover termination of service in violation of Section 25-F of I.D. Act. The workman is not claiming regularization in service. For reasons discussed above, I record my finding in Point No. 1 in Negative.

11. Point No. 2—

In view of my finding on Point No. 1, the services of 1st party workman are terminated in violation of Section 25-F of I.D. Act, question arises to what relief, the workman is entitled. Workman was working with IIInd party from 1984 to 1990. Considering the span of work, reinstatement would not be appropriate. Reasonable compensation would meet the ends of justice. In my considered vis, compensation Rs. 50,000 would be proper. Accordingly I record my finding on Point No. 2.

12. I the result, award is passed as under:—

- (1) Termination of services of Shri Shobarm S/o Shri Prabhulal Choudhary w.e.f. 31-1-90 is not legal.
- (2) IIInd party is directed to pay compensation Rs. 50,000 to the workman.

Amount as per above order shall be paid to workman with in 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2767.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार टेलिकॉम डिस्ट्रिक्ट मैनेजर बीएसएनएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केंद्रीय सरकार ओद्योगिक अधिकारण जबलपुर के पंचाट (संदर्भ संख्या 66/2004) को प्रकाशित करती है, जो केंद्रीय सरकार को 13.12.2013 को प्राप्त हुआ था।

[सं० एल-40012/240/2003-आईआर (डी०य०)]
पं० कौ० बेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 16th December, 2013

S.O. 2767.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 66/2004)

of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of BSNL, O/o the TDM, and their workman, received by the Central Government on 13/12/2013.

[No. L-40012/240/2003-IR(DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/66/2004

Presiding Officer: SHRI R.B. PATLE

The Divisional Secretary,
National Union of Telecom Employees Line Staff &
Group D Mundla Nayata (Palda),
Indore. ...Workman

Versus

The Telecom District Manager,
BSNL, O/o TDM,
Ratlam ...Management

AWARD

(Passed on this 12th day of November, 2013)

- As per letter dated 7-6-2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No.L-40012/240/2003-IR(DU). The dispute under reference relates to:—

"Whether the action of the management of TDM, Ratlam in terminating the services of Shri Goverdhan Singh S/o Shri Ramsingh w.e.f. 31-1-90 is justified? If not, to what relief the workman is entitled for?"

- After receiving reference, notices were issued to the parties. Workman filed Statement of Claim at page 5/1 to 5/4. Case of workman is that he was working with IIInd party from 1986. He was doing work of laying telephone lines and its maintenance. His services were discontinued from 31-3-90. He had completed more than 240 days continuous service preceding termination of his services. He was not served with notice, no retrenchment compensation was paid to him. Termination of his service is in violation of Section 25-F of I.D. Act. That principles of last come first go was not followed. As such provisions of Section 25-G is violated, workman had challenged his termination in original application 499/95 before CAT. His petition was dismissed for lack of jurisdiction.

Liberty was given to him to file proceeding before appropriate forum after consultation with the Union, conciliation proceedings was followed and the dispute has been referred. Workman claims reinstatement with consequential benefit.

- IIInd party filed Written Statement at Page 6/1 to 6/3. Preliminary objection is raised that the dispute is referred after 14 years is barred by limitation. That workman is not covered under I.D. Act. IIInd party has denied all material contentions of 1st party workman that he was continuously working from 1986 to 1990. That workman has not completed 240 days service. Termination of his services is not illegal. That workman was engaged on the work of requirement basis on completion of the project, his services automatically came to end. There was no question of terminating his services. Workman was not engaged against the vacant post. On such ground, IIInd party prays for rejection of the claim.
- Workman filed rejoinder at Page 7/1 to 7/3. He has reiterated his contentions that his services are terminated in violation of Section 25-F of I.D. Act that CAT had rejected his petition on 30-7-97. He had completed 240 days continuous service. His services are terminated without notice, no retrenchment compensation is paid to him.
- Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of TDM, Ratlam in terminating the services of Shri Goverdhan Singh, S/o Shri Ramsingh w.e.f. 31-1-90 is justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Relief prayed by workman is rejected

REASONS

- Workman is challenging termination of his services for violation of Section 25-F of I.D. Act. IIInd party denied all material contentions of workman. Workman filed his affidavit of evidence claiming that he had completed 240 days continuous service preceding termination of his service from 31-1-90. That he was not served with notice. Retrenchment compensation was not paid. In his cross-examination, workman says that he was working as labour from 1-1-86 to 1-1-90. Appointment letter was not issued to him. His name was not sponsored through Employment Exchange. He was called by management as per requirement. He further says that the document produced by him showing 187

working days in 1986 is incorrect. He denies that he had left work, workman has not proved the documents produced Annexure II, III are the zerox copies. Copy of order passed by CAT is produced on record. Management has filed affidavit of witness Shri P. K. Jain. The evidence of management witness is by way of denial that workman had not completed 240 days continuous service preceding his termination. In his cross-examination, management's witness says workman was not working in the Bank. Muster Roll was not signed by him. Document Exhibit W-1 shows workman was working for 187 days in 1986, 306 days in 1987, 45 days in 1988. The services of 1st party workman were terminated from 1-1-1990. Working days of workman in 1989-90 are not shown in Exhibit W-1. Other documents produced by workman are not proved. Burden lies on workman to prove completion of 240 days service preceding his termination. Such burden is not satisfactorily discharged. Therefore the workman is not entitled to protection under Section 25-F of I.D. Act, for above reasons, I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:—

- (1) Action of the management of TDM, Ratlam in terminating the services of Shri Goverdhan Singh S/o Shri Ramsingh w.e.f. 31-1- 90 is proper.
- (2) Relief prayed by workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली 16 दिसम्बर, 2013

का०आ० 2768.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार सेंट्रल टेलीग्राफ्स डिपार्टमेंट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 75/2005) को प्रकाशित करती है, जो केंद्रीय सरकार को 13.12.2013 को प्राप्त हुआ था।

[सं० एल-40012/29/2005-आईआर (डी०यू)]

पी० के० वैणुगोपाल, अनुभाग अधिकारी

New Delhi, the 16th December, 2013

S.O. 2768.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 75/05 of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Telegraphs Office, and their

workman, received by the Central Government on 13/12/2013.

[No. L-40012/29/2005-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/75/05

Presiding Officer, SHRI R.B. PATLE

Shri Imrat Sahu,
S/o Shri Kanhaiyalal Sahu,
R/o Ward No. 4, Khidiy Mohalla,
Opp to Pathak Ki Chakki,
Mandideep, Distt. Raisen

....Workman

Versus

The Superintendent,
Central Telegraphs Office,
Bhopal (MP)

....Management

AWARD

(Passed on this 22nd day of July, 2013)

1. As per letter dated 22-7-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/29/2005-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Superintendent, Central Telegraphs Department, Bhopal in terminating the services of Shri Imrat Sahu S/o Shri Kanhaiyalal Sahu *w.e.f.* November 2003 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at page 4/1 to 4/3. The case of Ist party workman is that on 5-1-99, he was appointed as peon by IIInd party. He was performing his duty honestly. He had not issued any charge-sheet, workman was paid Rs. 1100 per month. He was in continuous service of IIInd party for 5 years. His services were discontinued in November 2003 without notice. He submits that IIInd party was not allowing him to work, he was not paid wages, other persons were engaged in his place whose services are terminated without retrenchment compensation in violation of provision of I.D. Act, he prays for reinstatement with consequential benefits.
3. IIInd party filed Written Statement. The IIInd party denies that workman was appointed as permanent

post. He was continuously working as peon. According to IIInd Party, workman was engaged on contract basis for filing water, cleaning work, laying cable. From 1-1-99 he was not appointed against any post but he was engaged on contract basis. He was paid Rs. 1100 per month. It is denied that the workman was continuously working and his services are terminated in violation of provision of I.D. Act. IIInd Party prays for rejection of relief prayed by workman.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of Superintendent, Central Telegraphs Department, Bhopal in terminating the services of Shri Imrat Sahu S/o Shri Kanhaiyalal Sahu w.e.f. November 2003 is legal?	In Affirmative
(ii) If so, to what relief the workman is entitled to?"	Relief prayed by workman is rejected.

REASONS

5. Workman challenges his termination alleging violation of provisions of I.D. Act, however he failed to adduce evidence. The evidence of workman is closed on 8-12-2009. The management filed affidavit of witness Shri P.N. Singh. He was not cross-examined. Other witness S.M. Garg was also not cross-examined by workman.
6. As workman failed to substantiate his claim, he has failed to cross-examine the management witness, I find no reason to disbelieve the management's witness. Workman has failed to establish that termination is illegal. Therefore I record my finding in Point No. 1 in Affirmative.
7. Point No. 2—In view of my finding in Point No. 1, workman is not entitled to any relief as prayed by him.
8. In the result, award is passed as under:—

 - (1) The action of the management of Superintendent, Central Telegraphs Department, Bhopal in terminating the services of Shri Imrat Sahu S/o Shri Kanhaiyalal Sahu w.e.f. November 2003 is legal.
 - (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2769.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल पब्लिक वर्क्स डिपार्टमेंट के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक एवं श्रम न्यायालय नं० 1, दिल्ली के पंचाट (संदर्भ संख्या 127/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 16/12/2013 को प्राप्त हुआ था।

[सं० एल-42012/43/2013-आई आर (डी यू)]

पी० के० वेणुगोपाल, सेक्शन ऑफिसर

New Delhi, the 16th December, 2013

S.O. 2769.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 127/2013) of the Central Government Industrial Tribunal/Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Public Works Department, New Delhi and their workman, which was received by the Central Government on 16/12/13.

[No. L-42011/43/2013-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. 1,
DELHI**

I.D. No. 127/2013

Shri Surender Kumar Sharma,
C/o All India CPWD (MRM)
Karmchari Sangathan,
4823, Gali No. 13,
Balbir Nagar Extension,
Delhi-110032

....Workman

Versus

1. The Director General
CPWD, A-Wing,
Nirman Bhawan,
New Delhi.
2. The Executive Engineer (Electrical)
CPWD, 20, Subhash Road,
Dehradun.

....Managements

AWARD

1. A Wireman joined services with Central Public Works Department (hereinafter referred to as the management). He reached maxima of scale of pay. *In-situ* promotion was not granted to him by the

management. He raised a demand in that regard, but to no avail. Ultimately, he approached the All India CPWD (MRM) Karamchari Sangathan (hereinafter referred to as the union) for redressal of his grievance. The union raised an industrial dispute before the Conciliation Officer. Since management contested his claim, conciliation proceedings ended into a failure. On consideration of failure report, so submitted by the Conciliation Officer, the appropriate Government referred the dispute to this Tribunal for adjudication, *vide* order No. L-42011/43/2013-IR(DU), New Delhi, dated 12.09.2013 with following terms:

"Whether action of the management of CPWD in not granting *in-situ* promotion to Shri Surender Kumar Sharma, Wireman and consequential benefits is unjustified? To what relief workman is entitled to?"

2. Claimant was called upon to file his claim statement. When failure report, submitted by the Conciliation Officer, was under consideration by the appropriate Government, the management realized its mistake. The Director General (CPWD) passed order dated 09.06.2013 granting selection grade to the claimant with effect from 01.04.1981 in the pay scale of Rs. 330-480. Thus, it became evident that on grant of selection grade to the claimant, there was no occasion for grant of *in-situ* promotion to him.
3. Shri Satish Kumar Sharma, authorized representative, put in his appearance on behalf of the claimant. Instead of filing claim statement, he made a statement on oath wherein he projected that on grant of selection grade, there remains no grievance against the management. Contents of the statement, made on oath by Shri Sharma, are reproduced in extenso:

"I am the General Secretary of All India CPWD (MRM) Karamchari Sangathan and the authorised representative of Shri Surender Kumar Sharma, the claimant. In that capacity, I am competent to make a statement on his behalf. I state that on 09.06.2011, the Director General (CPWD) passed an order granting selection grade to Shri Surender Kumar Sharma with effect from 01.04.1981 in the pay scale of Rs. 330-480. On grant of selection grade to the claimant, the authorities had fixed his pay in the aforesaid scale and released payment of his arrears. In view of this situation, now Shri Surender Kumar Sharma cannot seek *in-situ* promotion. Now, there remains no grievance against the management. The dispute, referred by the appropriate Government, may be answered accordingly."

4. In view of the above facts, it is apparent that the claimant has been granted selection grade by the management, *vide* order 09.06.2013 with effect from 01.04.1981. On grant of selection grade, question for *in-situ* promotion no more remained valid. Claimant felt satisfied on grant of selection grade to him. It was projected on his behalf that his dispute stood resolved, which proposition is correct, since he has been granted selection grade from 01.04.1981 in pay scale of Rs. 330-480. Resultantly, it is concluded that now there remains no dispute between the parties. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 22.10.2013

Dr. RK. YADAV, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2770.——औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल पब्लिक वर्क्स डिपार्टमेंट के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं० 1, दिल्ली के पंचाट (संदर्भ संख्या 128/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 16/12/2013 को प्राप्त हुआ था।

[सं० एल-42011/44/2013-आई आर (डी यू)]
पी० के० वेणुगोपाल, सेक्शन ऑफिसर

New Delhi, the 16th December, 2013

S.O. 2770.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 128/2013) of the Central Government Industrial Tribunal/Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Public Works Department, New Delhi and their workman, which was received by the Central Government on 16/12/13.

[No. L-42011/44/2013-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. 1,
DELHI**

I.D. No. 128/2013

Shri Shyam Babu,
C/o All India CPWD (MRM)
Karmchari Sangathan,
4823, Gali No. 13,
Balbir Nagar Extension,
Delhi

...Workman

Versus

1. The Director General,
CPWD, Nirman Bhawan,
New Delhi.
2. The Executive Engineer (Electrical)
CPWD, 20, Sanjay Place,
Agra (U.P.) ...Managements

AWARD

1. An Assistant Wireman joined services of Central Public Works Department (here in after referred to as the management). Selection grade was not granted to him. Fifth Central Pay Commission recommended introduction of Assured Career Progression Scheme for grant of two financial upgradation to an employee in service span of 24 years. These recommendations were accepted by the Government and Assured Career Progression Scheme (in short the Scheme) was introduced with effect from 09.08.1999. The Assistant Wireman was granted two financial upgradation by the management, pursuant to the Scheme referred above. When the Government accepted recommendations of the Sixth Pay Commission, old Assured Career Progression Scheme was substituted by Modified Assured Career Progression Scheme (hereinafter referred to as MACPS). An employee is entitled to three financial upgradation in MACPS, counted from direct entry grade on completion of 10, 20 and 30 years of service respectively. Financial upgradation in MACPS is admissible whenever an employee spends 10 years continuous service in the same grade pay. The Assistant Wireman completed 30 years of continuous service as on 01.09.2008. He became eligible for grant of third financial upgradation under MACPS, but to no avail. He made a demand for grant of third financial upgradation, which demand was not conceded to by the management. He approached the All India CPWD (MRM) Karamchari Sangathan (in short the union) for redressal of his grievance. The union raised an industrial dispute before the Conciliation Officer. Since the management contested the claim, conciliation proceedings ended into a failure. On consideration of failure report, so submitted by the Conciliation Officer, the appropriate Government referred the dispute to this Tribunal for adjudication, *vide* order No. L-42011/44/2013-IR(DU), New Delhi, dated 13.09.2013, with following terms:

"Whether action of management of CPWD in not granting 3rd MACP with effect from 01.09.2008 to the workman Shri Shyam Babu, Assistant Wireman and consequential benefits is unjustified? To what relief workman is entitled to?"

- When failure report, submitted by the Conciliation Officer, was under consideration with the appropriate Government, management realized its mistake. The Director General (CPWD) passed an order on 06.09.2013 granting selection grade to Shri Shyam Babu, Assistant Wireman, in the pay scale of Rs. 1200-1800, with effect from 01.05.1989. He was also granted 3rd financial upgradation from 01.09.2008 in the pay scale of Rs. 5200-20200 with grade pay of Rs. 2800.

- When selection grade was granted to Shri Shyam Babu, besides 3rd financial upgradation, as referred above, the claimant opted not to file his claim statement. Shri Satish Kumar Sharma, authorised representative of the claimant, came forward and made statement on oath before the Tribunal. Contents of the statement, so made, by Shri Satish Kumar Sharma, are reproduced in extenso:

"I am the General Secretary of All India CPWD (MRM) Karamchari Sangathan and the authorised representative of Shri Surender Kumar Sharma, the claimant. In that capacity, I am competent to make a statement on his behalf. I state that on 09.06.2013, the Director General (CPWD) passed an order granting selection grade to Shri Shyam Babu with effect from 01.05.1989 in the pay scale of Rs. 1200-1800. He has also been granted third MACP with effect from 01.09.2008 and given financial upgradation in the scale of Rs. 5200-20200 with grade pay of Rs. 2800. In view of this situation, now Shri Shyam Babu feels satisfied, since his grievances have already been redressed. Now, there remains no grievances against the management. The dispute, referred by the appropriate Government, may be answered accordingly."

4. Out of facts stated by Shri Satish Kumar Sharma, it emerged that 3rd financial upgradation has been granted to Shri Shyam Babu with effect from 01.09.2008 in the pay scale of Rs. 5200-20200, with grade pay of Rs. 2800. On grant of 3rd financial upgradation, dispute between the claimant and the management stood resolved. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 22.10.2013

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2771.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स स्काई चेफ (इंडिया) प्राइवेट लिमिटेड, बैंगलोर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 06/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 12/12/2013 को प्राप्त हुआ था।

[सं० एल-11012/7/2011-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2771.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 06/2012) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial dispute between the employers in relation to the management of M/s Sky Chef (India) Pvt. Ltd., Bangalore and their workman, which was received by the Central Government on 12/12/2013.

[No. L-11012/7/2011-IR(M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 31st October 2013

PRESENT : SHRI S.N. NAVALGUND, Presiding Officer

C R No. 06/2012

I Party

Sh. Alex Joseph,
No. 136, 4th Main Road,
Jagadishnagar,
Thippasandra Post,
BANGALORE - 560 075.

II Party

The General Manager,
M/s. Sky Chef (India) Pvt. Ltd.,
Bangalore International Airport,
Devanahalli,
BANGALORE - 560 030.

APPEARANCES:

I Party : Shri T. Srinivasa
Advocate

II Party : Shri K.R. Anand
Advocate

AWARD

1. The Central Government *vide* order No. L-11012/7/2011-IR(M) dated 27.02.2012 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

"Whether the workmen of the management of M/s LSG Sky Chefs (India) Pvt. Ltd., Bangalore International Airport Ltd., Devanahalli, Bangalore

in terminating the services of Shri Alex Joseph, Ex-Demi Chief Domestic Enquiry Partie *w.e.f.* 30/9/2010 is legal and justified? What relief the workman is entitled to?"

2. After completion of the pleadings having regard to the specific contention taken by the II Party that II Party is not an industry carrying business under authority of Central Government as such this tribunal has no jurisdiction to adjudicate as consented by the learned advocate appearing for the I Party two Preliminary Issues were raised as to Whether I party-prove that II Party is an industry carrying business under the authority of the Central Government? If so, what the I party prove that this tribunal has jurisdiction to adjudicate the dispute covered in this reference and when the matter was posted for Evidence of I party on these two issues today a Joint Memo signed by the I Party his counsel, Sh. Ningaswamy, Manager (HR) for the II party and counsel for the II Party came to be filed wherein it is stated the I Party in final settlement of his claim received Rs. 184253.00 out of which Rs. 160431.00 is towards notice pay and unavailed leave salary of Rs. 10431.00 and Rs. 150000.00 as one time lumpsum towards exgratia and Rs. 23822.00 towards gratuity through Cheque No. 536879 drawn on Deutsche Bank, M G Road Bench and HSBC Banking Corporation Limited, M G Road Branch respectively in fully and final settlement of all his claim, the proceedings of the reference came to be closed. In view of the above settlement the I Party having received a total sum of Rs. 184253.00 towards full and final settlement of his claim and gave an end to the relationship of employee and employer between himself and the II Party the reference deserves to be rejected as settled between the parties. In the result, I pass the following:

ORDER

The reference is rejected in terms of the amicable settlement reported today since the claim of I Party on the II Party being settled and the relationship of Employee and Employer between I Party and the II Party is brought to an end.

S.N. NAVALGUND, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2772.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ऑयल कारपोरेशन लिमिटेड पानीपत रिफाइनरी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 71/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/12/2013 को प्राप्त हुआ था।

[सं० एल-30011/51/2012-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2772.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 71/2012) of the Central Government Industrial Tribunal/Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Oil Corporation Limited, Panipat Refinery and their workman, which was received by the Central Government on 12/12/2013.

[No. L-30011/51/2012-IR(M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH**

Case No. I.D. 71/2012

The General Secretary,
Indian Oil Panipat Refinery Employees Union,
Panipat Refinery, Panipat. ...Applicant

Versus

The Executive Director (Incharge) IOCL,
Panipat Refinery, Panipat-1321 ...Respondent

APPEARANCES:

For the workman/Union : Shri Hari Pal Singh Jethuri

For the management : Shri P. Muralidharan

AWARD

Passed on 29.10.2013

- Central Govt. *vide* notification No. L-30011/51/2012-IR(M), dated 11.1.2013, has referred the following dispute to this Tribunal for adjudication:

"Whether the increase in the period of probation of fresh/new appointees to Panipat Refineries as workman from six months to one year by an Administrative order without amending the certified standing order is just, fair and legal? To what relief the workmen are entitled?"

- Case taken up for hearing. Claim statement already filed by the Union, to which written statement was also filed on record by the management. Today the

case was fixed for evidence of the workman. The Authorised representative of the Union Sh. Hari Pal Singh Jathuri appeared and made the statement that the demand as per the reference met by the management and in view of the above, he withdraws the present reference. The Authorised representative of the Management Sh. P. Mulidharan also made the statement that the demand of the Union has been met/accepted, and reference may be returned in view of the above.

- In view of the above statements of the parties, the reference is answered accordingly. Central Government be informed. Soft copy as well as hard copy be sent to the Central Government for further necessary action.

Chandigarh 29.10.2013.

S.P. SINGH, Presiding Officer
नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2773.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टाटा ए०आई०जी०लाइफ इन्शुरन्स कंपनी लिमिटेड पटना के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 43/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/12/2013 को प्राप्त हुआ था।

[सं० एल-17012/17/2012-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2773.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 43/2012) of the Central Government Indus.Tribunal/Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tata AIG Life Insurance Company Limited, Patna and their workmen, which was received by the Central Government on 12/12/2013.

[No. L-17012/17/2012-IR(M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD**

PRESENT : Shri Kishori Ram, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 43 of 2012

PARTIES : Amit Kr. Singh, (Workman)
 Sonarpatti, Muzaffarpur (Bihar)
 Vs. Regional Sales Manager
 Tata AIG Life Insurance Company
 Ltd., Patna. 1

APPEARANCES

On behalf of the workman/Union : Workman (himself)

On behalf of the Management : None

State : Bihar Industry :
 Insurance

Dated, Dhanbad, the 12th Sept., 2013.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-17012/17/2012-IR(M) dt. 6.6.2012

SCHEDULE

"Whether the action of the management of Tata AIG Life Insurance Company Ltd. in terminating the services of Shri Amit Kumar Singh is legal and justified? What relief the workman is entitled to and from which date?"

2. The case of petitioner workman Amit Kumar Singh in brief is that he was legally appointed to the post of Asstt. Business Development Manager as per Appointment letter dt. 26.12.2007 issued under the authority of Senior Manager, Human Resources, TATA AIG (Annex. I). As per stipulated date noted in the appointment letter he joined his service on 02.01.2008 in the Branch Office, Muzaffarpur of the Company. On completion of six months' performance to the satisfaction of the authority concerned as per terms and conditions of the appointment letter, his service was confirmed resulting in his becoming a permanent employee. He was continuously performing his job of enhancing the business of the employer under the command and direction of Branch Sales Manager, Muzaffarpur, Shree Sudhanshu Verma (O.P. No. 1), and was accordingly getting his salary regularly till August, 2008, but at his approach to the authorities concerned following the non-receipt of his salary from Sept., 2008, he knew of himself having been shown as an absconder by the Branch Manager (O.P. No. 1) since 15.9.2008 on his service record, and it was communicated to the Higher Authority also without the knowledge of the petitioner, thereafter to him by the Higher Authority. Virtually the service of the petitioner has been terminated without serving on him any letter for termination/

dismissal or any show-cause, any explanation or any notice therefor. Thus, he was ousted from service, though he has signed the attendance Register till 29.09.2008, regularizing discharging his duties, because not any written information was served on him. Despite the aforesaid fact, the petitioner is legally still in the service.

3. Further, it is alleged on behalf of the petitioner that despite his intimations to the Authorities concerned (Annex-2 Series), and legal Notice dt. 01.09.10, the O.P. unresponded about it as also before the Labour Commissioner, Muzaffarpur. At the reference of the petitioner's case to the Labour Commissioner, Government of Bihar, Patna and then as per the instructions contained in the letter No. 3/D-44/11 No. 1719 dt. 17.06.2011 of the Joint Labour Commissioner, Bihar, Patna (Annex-3), the petitioner filed his application before the A.L.C. (C), Patna for redressal of his grievance in which the other side appeared and filed its written statement objecting his claim; at last the matter was referred to the Central Government for an adjudication. The petitioner has the continuous service ad defined u/s 25B of the I.D. Act but the employer did not follow the procedure/categorical provision u/s 25F of the Act for retrenchment/termination. Moreover, after six months of continuous service, no employer can illegally terminate the petitioner without following the procedure laid down under section 26 of the Shop & Establishment Act. The Opposite Party has not communicated the petitioner about his any misconduct till the date. In spite of the discharge of the duties and achievement of desired result by the petitioner as per the instructions of the Higher Authorities, the action of the Opposite Party in singling him out and discriminatorily treatment towards him by terminating his service is entirely illegal and unjustified; it has put him in great financial loss, as he has no other means of income. As such, the petitioner has sought the reliefs for his re-instatement in service with back wages and benefits from Sept., 2008 and other reliefs.
4. At the receipt of the present reference on 1.8.2012, both the parties were issued Notices fixing 17th Oct., 2012 for appearance. But the petitioner earlier filed his written statement with documents on 7.8.2012.

When the O.P./Management did not appear and respond to any of the three Regd. Notices dt. 27.8.12, 17.10.12 and 09.01.2013, the case came up for ex parte hearing

FINDING WITH HEARING

5. In support of his case, the ex-parte statement of WWI Amit Kumar Singh, the workman himself

reveals that as per his appointment letter dt. 26.12.2007 with Annexure I Compensation Summary Letter (Ext. W. 1, seven sheets), he has continuously served as the ABDM (Asst. Business Development Manager) under the management from 28th December, 2008 to August, 2008 at Muzaffarpur Branch) and accordingly he was paid his salary for the period; the copy of his salary for March, 2008 issued by the H.R. of the Management (Ext. W. 3) as an instance of it; thereafter though continued his service up to Sept., 2008, yet without salary despite his marked attendance; at his approach to the H.R. of the Company following non-payment of his salary, it was found showing him an absconder since 15th Sept., 2008 whereas he never absconded from his duty; as such termination of his service by the Company Management without any legal procedure was illegal and unjustified. The petitioner appears to have represented through his three applications dt. 18.02.2009, 06.02.2009 and 21.04.2009 (Extt. W. 4 series) to the Branch Sales Manager and other Authorities concerned for payment of wages for three months and the Legal Notice dt. 1.9.2010 (Ext. W. 4/3) as well as to the A.L.C., Chata Chowk, Muzaffarpur, therefore, he raised the industrial dispute before their A.L.C. (C), Patna, whenever the management of the Insurance Company had submitted its written submission dt. nil (Ext. W. 5) to which he had submitted his reply dt. Nil (Ext. W. 5/1). In fact, there is quite indisputable that as per the terms of the letter dt. 26.12.2007 dealing with "Sub: Appointment Letter" with its Annexure I Compensation summary Sheet as part of his appointment letter dt. Jan., 2007, the appointment of the petitioner as the Asst. Business Development Manager was totally contractual subject to the terms and conditions noted therein for Business Development as well as for the performance based on sales incentives as announced by the Company from time to time. Admittedly the Annexure-I Compensation Summary Sheet to the appointment letter of the workman deals with "This form is a part of his appointment letter dt. 2.1.2007" between the said periods there was an offer and acceptance of service and submission of his qualification etc. for his present appointment. In fact the appointment of the petitioner was as per the terms and conditions laid down in his appointment letter. Accordingly to him (WWI ex parte) but without any notice or any reason assigned or any legal proceeding for any misconduct against him, the O.P./Management illegally terminated his service by showing him falsely as an absconder.

6. On perusal of the ex-parte oral and documentary evidences as adduced on behalf of the petitioner, I

find the indisputable fact is that as per the terms of the letter dt. 26.11.2007 dealing with "Sub: Appointment Letter" with its Annexure-I Compensation Summary Sheet a part of his appointment letter dt. Jan., 2, 2007 the appointment of the petitioner as the Asst. Business Development Manager was totally contractual subject to the terms and conditions noted therein for Business Development as well as for performance based on sales incentive as announced by the Company from time to time. But the petitioner could not establish how he was declared an absconder. Whereas the allegation of the petitioner about his illegal termination as an absconder without any notice any reason stands rebutted by his produced document—the photocopy of the written submission of the Insurance Company concerned as submitted before the A.L.C. (C), Patna, (Ext. W. 5-three sheets) which *prime facie* discloses his termination as per its letter dt. 9th Dec., 2008 as intimated to him, for his long unauthorized absence despite its letter dt. 20th & 29th Nov., 2008 to him for rejoining his duty, as also for his negligent conduct and for his unsatisfactory performance and his unprofessional behaviour. These are the misconducts of the continued unauthorized absences, and negligence of the workman which amount to the persistent breach of the terms and conditions as laid down under the para 13 a to d of the workman's Appointment Letter dt. 26th Dec., 2007 (Ext. W. 1) for his contractual work as the Assistant Business Development Manager. The O.P./Management of the TALIC (Tata AIG Life Insurance Company) is vested with its internal discretionary power under the said para of its Terms and Conditions to terminate the delinquent petitioner workman forth with without prior notice if, in the opinion of the company at any time for his act, misconduct or negligence, or failure in observation compliance with its instruction and directions. As the performance of any employee like petitioner is always expected to be subservient to the interest of his Company or Master in view of their contractual relationship as per the specified terms and conditions thereof, any breach of its terms such as international negligence in discharging of duty by its employee affects the interest of the Company for Business Development which is meant for both the parties. Therefore, the petitioner has been rightly terminated by the O.P./Company from his service for his intentional negligence and non-professional behaviour towards the Company.

7. In result, it is, in the terms of the reference hereby.

ORDERED

Let the Award be and the same is passed that the action of the Management of Tata AIG Life Insurance Company Ltd., in termination of service of Shri Amit Kumar Singh is quite legal and justified. Hence, the workman is not entitled to any relief from any time except his any legal dues up to the date of his termination.

KISHORI RAM, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2774.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लाइफ इशुरेन्स कारपोरेशन ऑफ इंडिया हज़ारीबाग डिवीज़न के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 16/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/12/2013 को प्राप्त हुआ था।

[सं० एल-17011/6/2010-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2774.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2011) of the Cent.Govt.Indus.Tribunal/Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation of India, Hazaribag Division and their workman, which was received by the Central Government on 12/12/2013.

[No. L-17011/6/2010-IR(M)]
JOHON TOPNO, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO.2), DHANBAD**

PRESENT: Shri Kishori Ram, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 16 of 2011.

PARTIES: The Secretary, Insurance Workers Organisation, Jamadoba, Dhanbad

Vs.

Divisional Manager, L.I.C. of India, Hazaribagh

Appearances:

On behalf of the workman	:	None
On behalf of the Management	:	Mr. M.A. Khan., Ld. Advocate
State	:	Jharkhand
Industry	:	Insurance

Dated, Dhanbad, the 7th June, 2013.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-17011/6/2010-IR(M) dt. 23-05-2011.

SCHEDULE

"Whether the action of the management of LIC, Hazaribagh Division in denying the equal wages for equal work at par with regular Sub-staff of the Corporation in respect of S/o Shri Mangal Kerketta and 76 others (List enclosed) is justified? What relief the workmen are entitled to?"

2. Neither the Representative of the Insurance Workers Organisation, Village Jamadoba, Distt. Dhanbad nor any of the seventy-seven workmen S/Shri Mangal Kerketta and 76 others (List enclosed) appeared nor any written statement in their behalf has been filed despite four Regd. Notices issued to the Secretary of the Union concerned. Mr. M. A. Khan, the Ld. Advocate for the management, is also present.

On the perusal of the case record, I found that in spite of four Regd. Notices issued to the Secretary of the aforesaid union on his address noted in the Reference itself, none of the Secretary or the workmen responded to the notices in regard to the filing of their written statement in the reference which is related to the demand of their equal wages for equal work. The Secretary of the union and the workmen by their conducts appeared to be disinterested in fighting the case for its finality. Under these circumstances, proceeding with the case for uncertainty is unwarranted; hence the case is closed as no Industrial Dispute in existence. And accordingly an order of No Industrial Dispute existent is passed.

KISHORI RAM, Presiding Officer

List of Worker in Hazaribagh Division

Sl. No.	Name	Father's Name	Date of Joining	Branch
1	2	3	4	5
1.	Mangal Kerkatta	Lt. Kinu Kerkatta	22.09.93	Dnb. Br.1
2.	Sachida Nandan Pd. Singh	Shri Ram Deo Ram	26.10.93	Dnb.Br.1
3.	Gopal Prasad	Lt. Nag Narayan	29.07.92	Dnb.Br.1
4.	Basu Bahadur	Sri Gyan Bahadur	28.08.1993	Dnb.Br.1
5.	Surendra Pd. Bhuiya	Lt. Bishnu Pd. Bhuiya	02.11.1993	Dnb.Br.1
6.	Biznath Gupta	Sri Mohan Lal Saw	31.08.1994	Dnb.Br.1
7.	Suresh Kumar	Shri Bishwanath Rajak	01.01.1995	Dnb.Br.1
8.	Syama Pd. Mahanta	Lt. Bela Hari Mahanta	01.01.1994	Dnb.Br.1
9.	Sanjay Kumar Singh	Lt. Gaur Chandr Singh	17.08.1989	SSSale Dnb.
10.	Mukul Singh	Lt. Ashutosh Singh	22.09.1993	SSSale Dnb.
11.	Chandi Charan Bouri	Sri Chatu Bouri	28.10.1994	SSSale Dnb.
12.	Ashok Kumar Karmkar	Sri Anando Mohan Karmkar	28.10.1994	SSSale Dnb.
13.	Chandan Kumar Jha	Sri Jai Kishan Jha	02.11.1993	Dnb.Br.2
14.	Alok Kumar Pathak	Sri Gasnesh Ch. Pathak	16.11.1990	Dnb.Br.2
15.	Sasti Charan Mondal	Sri Mathur Mondal	01.07.1990	Dnb. Br 2
16.	Sanjay Kumar Mishra	Sri Anirudh Mishra	02.11.1993	Dnb.Br.2
17.	Sashi Sekhar Jha	Lt. Bijay Ch. Jha	10.11.1996	Dnb.Br.2
18.	Madhu Sudhan Pandey	Sri Lakhand Pandey	10.05.1990	Dnb.Br.2
19.	Jalo Dutta	Lt. Golak Dutta	28.06.1993	Dnb.Br.4
20.	Sudhanshu Pandey	Sri Lakan Pandey	28.09.1995	Dnb.Br.4
21.	Bhola Nath Pandey	Sri Lakan Pandey	18.06.1995	Dnb.Br.4
22.	Sateyendra Kumar Pandey	Lt. Bishwnath Kumar Pandey	18.04.1983	Sindri
23.	Lal Jee Dubey	Lt. Bishwanath Kumar Dubey	14.04.1990	Sindri
24.	Pradeep Sardar	Sri S. N. Sardar	18.05.1988	Sindri
25.	Dhananjay Bouri	Sri Fakir Bouri	06.07.1993	Sindri
26.	Shamal Sahish	Sri Paresh Sahish	15.04.1993	Sindri
27.	Jhunu Sardar	Lt. Jadu Sardar	20.07.1993	Sindri
28.	Dhanraj Ram	Lt. Chaklu Ram	17.07.1998	Ramgarh
29.	Prabin Kr. Sinha	Sri A. K. Sinha	03.10.1994	Ramgarh
30.	Chunnu Pd. Kuswaha	Sri Utam Pd. Kuswaha	01.01.1995	Ramgarh
31.	Narayann Nath Pd.	Sri Raja Ram	20.06.1994	Ramgarh
32.	Ramesh Pd.	Sri Sita Ram Ram	16.07.1998	Ramgarh
33.	Pradeep Kumar Pd.	Sri Vishwanath Prasad	16.07.1993	Chirkunda
34.	Govinda Podo Sadhu	Lt. Ram Kiukar Sadhu	12.04.1988	Chirkunda
35.	Mintu Kanthal	Sri Niranjan Kanthal	20.05.1996	Chirkunda
36.	Sasti Das	Lt. Rampada Das	15.08.1995	Chirkunda

1	2	3	4	5
37.	Bali Ram Prasad	Sri Ram Janam Prasad	20.09.1998	Chirkunda
38.	Pappu Kumar	Sri Durga Ram	1.11.1995	Giridih
39.	Sailender Kumar	Sri Gopal Prasad	1.1.1995	Giridih
40.	Soumen Sen Gupta	Sri R. S. Sen Gupta	27.03.1994	Katras
41.	Montu Rajwar	Sri Arjun Rajwar	12.7.1994	Katras
42.	Baudeo Saw	Lt. Thakur Saw	20.12.1993	Katras
43.	Lakhikanth Dawn	Sri Devendra Nath Dawn	17.10.1995	Katras
44.	Bharat Kumar Mali		27.12.1993	Katras
45.				
46.	Ajit Kumar Verma	Sri Narayan Ram	27.10.1995	Jhumri Talia
47.	Sudhir Ram	Sri Awadh Bihari	27.10.1995	Jhumri Talia
48.	Kamal Deo Prasad	Sri Madhusudhan Prasad	29.1.1994	Bokaro
49.	Manjee Pandey	Sri B. B. Pandey	23.11.1994	Bokaro
50.	Nirjan Mahato	Sri Ambuj Mahato	1.12.1993	Bokaro
51.	Prahlad Kr. Mahato	Sri Thakur Mahato	5.5.1997	Bokaro
52.	Sagar Chand Mahato	Sri Gunjam Mahato	28.8.1996	Bokaro
53.	Harlikcs Mahato	Sri Jai Chand Mahato	19.08.1996	Bokaro
54.	Sunil Kr. Singh	Sri S. N. Singh	1.1.1994	Bokaro
55.	Basudeo Prasad	Lt. Chanda Prasad	17.7.1995	Bokaro
56.	Kanahiya Ram	Sri Mantu Ram	17.7.1995	Bokaro
57.	Hemlal Mahato	Lt. Gujar Ram	17.11.1993	Bokaro
58.	Rameshwar Mahato	Sri Narayan Mahato	17.11.1993	Bokaro
59.	Shadeo Mahato	Sri Chhaku Mahato	12.9.1995	Bokaro
60.	Kishan Ram	Sri Ram Lal Ram	12.9.1995	Bokaro
61.	Dujo Pado Bhandari		12.9.1995	Govindpur
62.	Raju Kumar Battha	Sri Bhawanath Rajak	2.11.1993	Govindpur
63.	Binod Kr. Mandal	Sri Ganga Dhar Mandal	2.11.1995	Govindpur
64.	Sanjay Kr. Mishra	Sri Anriudh Mishra	2.11.1993	Govindpur
65.	Ranjit Kumar	Sri Ram Kumar Thakur		Bokaro
66.	Mahesh Ram	Sri Baijnath Ram		Bokaro
67.	Ramesh Kumar Sharma	Sri Mahendra Prasad		Bokaro
68.	Bairam Jha	Sri Bhumeshwar Jha	11.2.1994	Bokaro
69.	Jagarnath Gorai	Sri Kalipodo Gorai	23.11.1990	Bokaro
70.	Dilip Bhadhr	Sri Uday Raj Giri		Ramgarh
71.	Ajit Lal			Ramgarh
72.	Biswajit Roy	Shri Bipati Bhanjan Roy		Govindpur
73.	Md. Inam			Ramgarh
74.	Mirtunjay Singh			
75.	Birendra Tiwari	Lt. Rishi Kesh Tiwari		
76.	Kirshna Pado Mandol	Sri Rathu Mandol		Chirkunda
77.	Dilip Kumar Sen	Lt. Narayan Chandra Sen		Chirkunda

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2775.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत पेट्रोलियम कॉरपोरेशन लिमिटेड, धनबाद डिपो के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 35/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/12/2013 को प्राप्त हुआ था।

[सं० एल-30012/2/2005-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2775.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 35/2005) of the Cent.Govt. Indus.Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharat Petroleum Corporation Limited, Dhanbad Depot and their workmen, which was received by the Central Government on 12/12/2013.

[No. L-30012/2/2005-IR(M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

PRESENT: Shri Kishori Ram, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

Reference No. 35 of 2005

PARTIES

: The General Secretary,
Jharkhand Janta Mazdoor Union,
Koyla Nagar, Dhanbad
Vs. Sr. Officer Incharge,
M/s BPCL, Dhanbad

APPEARANCES:

On behalf of the workman/Union	: Mr. N.M. Kumar, Ld. Advocate
On behalf of the Management	: Mr. V.K. Pandey, Ld. Advocate
State	: Jharkhand Industry : Coal

Dated, Dhanbad, the 27th June, 2013.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to

this Tribunal for adjudication *vide* their Order No. L-30012/2/2005-IR (M) dt. 29.03.2005.

SCHEDULE

"Whether the action of the Management of M/s BPCL, Dhanbad Depot, Dhanbad in not reinstating S/Shri Dwij Pad Mondal, Utpal Kumar Ganguly and Yogendra Singh in the services of the Corporation in their respective cadre is justified? If not, to what relief the concerned workmen are entitled?"

2. The Case of the Jharkhand Janta Mazdoor Union, Dhanbad, for three workmen S/Shri Dwij Kumar Mandal, Utpal Kumar Ganguly and Yogendra Singh is that on sponsoring their names by the Employment Exchange, Government of Bihar in the year 1989, after their written test and personal interview initiated by the Management of Bharat Petroleum Corporation Ltd., (M/s BPCL), they were declared successful and appointed by it; Dwij Pd. Mandal and Utpal Kumar Ganguly as General workmen, and Yogender Singh as Heavy vehicle Driver were working, for which they were paid their wages by the management at the monthly rate prescribed by it from time to time, in addition to *ex-gratia* payment to them by it as per the rules of the management. In spite of their continuous service for 13 years, the management terminated without prior any chargesheet or any show cause against the mandatory provisions of the Certified Standing Order of the Company, and of the Industrial Disputed Act, 1947. Though they were regularly reporting for their duties, the management made some paper arrangement as a camouflage in order to deprive them of legitimate right and benefits showing them as casual workmen. All of the had got the status of permanent workmen. The BPCL Management is a Government Company, it can not adopt the theory of hire and fire. They suffered the victimization amounting to unfair labour practice under the/schedule Fifth to the I.D. Act, 1947. They are entitled to their reinstatement with full beck wages and other consequential benefits.

3. The sponsoring Union in its rejoinder has specifically denied the allegations of the Management and stated that once the matter referred by the Ministry needs an adjudication. For engagement of the workmen in any planned and unplanned leave of permanent workmen, a Badli workmen is to be engaged in casual nature of job whereas the workmen concerned were engaged in the permanent nature of job. Their termination was in utter violation of the principle of natural justice. The BPCL is not a 'state' within the meaning of Art. 12 of the Constitution of India.

4. Whereas categorically denying the allegations of the Union/workmen, the case of the O.P/Management is that the Union being not of the workmen has no locus standi to raise the dispute. The BPCL has a Depot at Dhanbad where petroleum and its products are distributed

to its various Dealers. The Dhanbad Depot is responsible for adequate supply of the petroleum and its products to its retailers. For the distributor and other incidental works, the management has already engaged regular employees as per the sanctioned posts in the different cadres and grades. However, due to absentism and sudden exigencies' to keep the supply line going, it has to engage some casual and purely temporary persons for maintaining the regular chain of supply and running the business smooth. The engagement of casual workers as an acknowledged practice prevalent in all the industries to cater the exigency in sudden spurt of workload by maintaining continuity of the work in the event of any planned/unplanned leave of permanent workmen. The company even for casual engagement has to engage only the persons recommended by the Employment Exchange and accordingly as per its request letter dt. 5.6.1989, it notified the requirement for empanelment of casual and temporary labours etc. for which the name were called for from there. Such workers were paid at the daily rated wages. After the written test of the recommended candidates on 10.12.1989 followed by the declaration of their result on 15.12.1989, successful candidates were called for interview on 29.12.1989. On the medical test the three workmen concerned were empanelled to discharge duties purely on casual and temporary basis in exigency. The workmen began to work only on the days when their services were required. Their call letters specified their engagement only purely and temporary on casual basis could not in any circumstances be deemed as an offer by the Corporation for employment.

5. Further it is alleged that knowing full well the nature of the purely temporary engagement liable to be disengaged on any day without prior information or payment of compensation, the workman accepted their such empanelment for temporary and casual engagement. The workmen continued to be engaged during the same year, i.e. 1989-90 till 2000-01 for some days in exigencies and accordingly they were paid their woes at the rate of day wage including *ex-gratia*, but none of three workmen ever completed continuous work for 240 days in any year as noted in para 13 of the Written statement cum rejoinder of the O.P./Management. The casual engagement of the workmen concerned discontinued in the year 2001. It was neither termination nor retrenchment, rather a disengagement of casual and temporary engagement.

6. It is also alleged by the O.P./Management at the complain of the workmen to the Asst. Labour Commissioner ©, after detailed enquiry into it, the ALC concerned found no irregularity in the disengagement and intimated them as per his letter dt. 21.3.2003 that no legal action was possible in that regard. Then the corporation also reported in writing dt. 8.1.2004 and 29.3.2004 to the two legal notice dt. 15.12.2003 and 18.1.2004 of the workmen. Consequent upon the dismissal of their Writ application by the Hon'ble High Court, Jharkhand the Union concerned as per their

letter dt. 21.9.2004 in view of the observation of the Hon'ble High Court raised the dispute before the ALC, Dhanbad which in failure of reconciliation resulted in the reference for an adjudication. The Corporation being a Public Sector Undertaking is not a Government and service condition etc. applicable to Central Government employees are inapplicable to it, as the Corporation has its own rules and regulations. In view of the matter, no impediment can be put before an employer in the engagement of casual and temporary employees in exigencies.

7. The O.P./Management in its rejoinder with categorically denials has stated that they worked out breaks as casual and purely temporary employees. They were never issued appointments letter for their appointment against the permanent posts, nor allotted any benefits or facility as available to permanent employee. Their payment of wages was based on the number of their working days as casual workers, but never on monthly basis. They were fully aware of their engagement as casual workers against the absentism as also defined in the Certified Standing Order of the Corporation. As such their casual engagement for it automatically ended with their disengagement. So, the workmen are not entitled to any relief.

FINDING WITH REASONING

8. In the reference, WW1 Diwij Pado Mahato, WW2 Utpal Kumar Ganguly, and WW3 Joginder Singh, all three workmen for the Union concerned and MW1 Diwakar Das, the Depot Incharge, BPCL, Dhanbad and MW2 Subhash Mukherjee, the Manager (Employees Relation), East Kolkata for the O.P./Management have been respectively examined. Out of all three workmen's witnesses on their affidavited statements, the last WW3 being uncrossed has not legal evidentiary value.

9. Mr. N.M. Kumar, Ld. Counsel for the Union/ workmen, submits that the admissions of MW1 Darwika Das in paras 5 & 6 of his statement as in Para 7 & 8 of the Written statement of the O.P./Management are that the workers were reallted on declaration of their success through the usual process of calling for the their names from the employment exchange Written Test, Interview and Medical Test by the Company and despite the admitted facts of the registers of their Attendance and payment having been maintained, the failure of their management in producing them as called for as per the petition dt. 15.12.2005 of the workmen or any document about their empanelment as casual and temporary workers lead to an adverse inference against the management; as such, it stands proved the completion of their 240 days attendances, and so their termination was in utter violation of the mandatory provisions of Sec. 25 F and 25 N of the I.D. Act., 1947.

10. But the argument of Mr. Kumar, Learned Counsel for Union appears to be diluted with unreal facts, because it is an indisputed fact as WW1 Diwij Pado Mandal admitted

that none of the workmen has got any letter of appointment as a permanent worker which is evident from their photocopies of written test: General workman against a few casual vacancies concerning the workman concerned (Ext. 1 to 5), and Identity Cards of Shri Durj Pado Mandal and Shri Utpal Kumar Ganguly 9Extt. W.11 and W.12 respectively. Apart from it, the photocopies of Exgratia payment to them as casual workmen for the period of 1992-93, 1991-92, 1994-98 and 2000-01 (Ext. W.13-18) respectively, but none of them establishes it that any of the workmen has continuously worked for 240 days for any year preceding the date of raising the industrial dispute. The straightway admission of WW2 Utpal Kumar Ganguly that his letter dt. 21.11.1989 issued by the management for the written test (Ext. W.2) was for General workman purely casual; they used to get their wages accordingly to their work done, and that no letter was issued by the Management for making them permanent workers-prove their status purely as casual workers.

11. Mr. V.K. Pandey, the Learned Advocate for the O.P./Management has contended that the management of the Bharat Petroleum Corporation (BPCL) had engaged three casual Mr. Diwij Pado Mandal, Utpal Ganguly and Yogender Singh as casual workers in exigencies of sudden increase in workload or of unplanned leave and absentism of regular workmen but none of them completed 240 days in any particular year, because they worked occasionally and intermittently. Further contention of the Ltd. Counsel for the O.P./Management is that while sponsoring the names of these casual workers by the Local Employment Exchange, it was to their full knowledge of their engagement as casual only, for which their suitability of skill level required for preference of entirely casual jobs as the BPCL is a highly sophisticated organization which handles the petroleum products. Mr. Pandey, the Ld. Counsel for the O.P./Management has submitted that the Hon'ble Supreme Court in the case of the Secretary State of Karnataka Vs. Uma Devi 2006 LL1-722 a similar to the present case was pleased to hold.

"When a person enters a temporary employment gets engagement as a contractual or casual worker and the engagment is not based on a proper selection as recognized by relevant rules of the procedure, he is aware of the consequence of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection...." (Para 38)

From the statements of the MW1 Dwarika Das, the Depot Incharge, Dhanbad, and MW2 Subhash Mukherjee, the Manager the Employee Relation, East Kolkata it is evident that the engagement of the three workmen after calling for names of 25 persons as sponsored by the

Employment Exchange followed by Written Test and Medical Test for their fitness was casual but not against any sanctioned post, they were paid only for their work done casually according to their attendances as per their Attendance Registers for pereiod 1989 to 2002. Moreover, apart from all the relevant exhibited documents, the Exgratia payment (Ext. M 14-36) to the casual workers for the period 1.4.1990 - 31.3.1991 upto March, 2002 sepcifically details their working days annually but intermittently lesser than 240 days in the relevant years.

On the consideration of the materials availables on case record, I find that these three casual workers cannot claim for reinstatement in any cadre, as none of them was appointed/engaged against any sanctioned post under the management. The arguments of Mr. V.K. Pandey, Learned Counsel for the O.P./Management as contrasted with that of Mr. N.M. Kumar, the Ld. Advocate for the Union/workmen appears to be more plausible and persuasive. In view of the aforesaid findings, it is, in the terms of the reference, hereby.

ORDERED

That the Award be and the same is passed that the question about alleged action of the management of M/s. BPCL, Dhanbad Depot, Dhanbad is not reinstating S/Shri Dwij Pado Mandal, Utpal Kumar Ganguly and Yogender Singh in the services of the Company in their respective cadre as justified does not arise as also in view of their admitted status as casual workers, as well as in lack of their pleading and proof about alleged cadre. Hence, the workers concerned are not entitled to any relief.

KISHORI RAM, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

कांआ० 2776.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आइ० बी० पी० कंपनी लिमिटेड लालमटिआ के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय न० 2 धनबाद के पंचाट (संदर्भ संख्या 89/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 12/12/2013 को प्राप्त हुआ था।

[सं० एल-30011/59/2000-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2776.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 89/2000) of the Central Government Industrial Tribunal/Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of I.B.P. Company Limited, Lalmatia and their

workman, which was received by the Central Government on 12/12/2013.

[No. L-30011/59/2000-IR(M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT: Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 89 of 2000.

Parties : Mr. Arun Kr. Dutta & 6 others (Workmen)
Vs. Management of I.B.P. Co. Ltd., Lalmatiya, Godda, Jharkhand

Apearances:

On behalf of the workman : Mr. S.N. Goswami, Ld. Advocate

On behalf of the Management : Mr. D.K. Verma, Ltd. Advocate

State : Jharkhand Industry : Mines

Dated, Dhanbad, the 12th June, 2013

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-30011/59/2000-IR(M) dt. 29.08.2000.

SCHEDULE

"Whether Sri G.P. Sen, Sri S.P. Srivastava, Sri Gautam Ghosh, Sri R.N. Verma, Sri A.K. Dutta, Sri Zacharias Minj and Vinod Sonkar can claim themselves as workmen of IBP Co. Ltd., at Lalmatia, Godda, whether the action of the management in not regularizing their services & stopping their salaries *w.e.f.* July, 1999 and onwards was justified? If not, to what relief the workmen are entitled to?"

2. The case of Sri Arun Kumar Dutta the workman raising the industrial dispute for the seven workmen named in the reference, is that the workmen have been continuously working at SMS Plant at Lalmatia since its inception from the different dates of their appointment in the year 1994 as permanent workmen against permanent vacancy there, producing goods for the benefit of the management. They have been working under the direct control and supervision of the management. They have put in more than 240 days attendance in each calendar year. The management are also supplying all the implements

for the execution of the job. They have been performing the same and similar nature of job of perennial nature as being performed by other permanent workmen of the Company. Initially the management started to pay them arbitrarily and below the prescribed rate of wages, and even minimum wages for the IBP Company Ltd. through intermediaries which is nothing but a legal camouflage. The management started to pay them directly from Oct., 1997 and paid up to June, 1999. At their demand for regularization and other facilities at par with other permanent workmen, the management started of offer them wages through alleged intermediaries M/s. Deepak Enterprises Before introduction of the intermediary system, no notice was issued under Sec. 9A nor the principle of natural justice was followed.

3. Further case of the workmen is that as soon as the management started to pay the concerned workmen wages directly, they shall be deemed as the employees of the management. The workmen became the permanent employees of the management since their engagement. Despite their protest against the illegal change in condition of services and introduction of payment through alleged intermediaries, they are working regularly, though they are not receiving their monthly wages from the alleged intermediary. Even at their several repeated representations for regularization and for payment of wages at par with other permanent employees. As per resolution at their meeting, one workman Arun Dutta was selected and authorized to espouse the dispute on their behalf, which was raised before the ALC (C), Patna, but its failure in conciliation due to adamant attitude of the management resulted in the reference for an adjudication. The action of the management is not regularizing their services and stopping their salaries from July, 1999 onwards was illegal and unjustified whereas their claim for it is legal and justified.

4. In the rejoinder dt. 20.02.2002 unsigned by any of the workmen, it has been specifically denied all the allegations and stated that it is not an individual dispute, rather an industrial dispute under the Industrial Dispute Act, as it was raised by the person authorized by the body of the workmen. The supply of the explosives by the Company to different collieries is the job of permanent and continuous nature to maintain steady progress of work which is the work of continuous and permanent nature concerning the workmen.

5. Whereas the contra pleaded case of the O.P./Management with categorical denials is that the present reference being related to an individual dispute is not an industrial dispute u/s 2A read with Sec. 10 of the Industrial Dispute Act., 1947. The persons concerned were neither selected nor recruited by the management of I.B.P. as such never employer-employee relationship existed between the management and the persons concerned. They were

engaged by M/s. R.K.J. Jaiswal, a contractor of the Company during the period from April 1997 to Sept., 1997 to perform the contract jobs awarded to the contractor by the company. The management of I.B.P. Co. Ltd., entered into the agreement with M/s. Coal India Ltd., and M/s. Eastern Coalfields Ltd., for supply of explosives to the Mines at Lalmatia Colliery within Rajmahal Area as per the terms and conditions of the agreement. The manufacture and shortage of the explosives is stored in the magazine as per the licence obtained by the management of the colliery as well as per the licence obtained by the management of M/s. I.B.P. Co. Ltd. in view of consumption of explosives at different period, the production is made steady for maintenance of shortage capacity in the magazine as per the prescribed limits in the licence. Thus the production of explosives by the management cannot be unlimited in quantity and the production fluctuate as per the requirement in the collieries.

6. Further alleged by the O.P./Management that in situation of the exigent production of explosives under severe restriction as per the provision of law, the management engages contractor for some of the jobs incidental to production of explosive at the explosive plant; accordingly a contract for it was awarded to M/s. R.K. Jaiswal during the period from April, 1997 to Sept. 1997? The contractor performed the job as per the terms of the agreement and work order, and engaged the concerned workmen to perform the jobs entrusted to the contractor. After expiry of the aforesaid contract, the concerned workmen took themselves the contract individually and jointly discharged their responsibilities in executing the contract, and receiving their payment from the management on their respective bill. Thus they carried on the contract jobs as per the requirement during the period from Oct., 1989 to June, 1999. Thereafter, when M/s. Deepak Enterprises got the contract in its favour from July 1999 and in failure to get it the concerned persons interfered with the work of the contractor, and they approached the contractor for their engagement. In some disputes over payment of dues between the contractor and its workmen, the management as the Principal Employer took initiative for smooth work of contract job and for proper payment of wages to them as per provision of Contract Labour (Regulation & Abolitions) Act, 1970 and its rules. Thus, the concerned persons are working as contractor workers of the said contractor, and are getting the payment from it on the basis of the jobs performed by them as allotted to the contractor from time to time. So they cannot assert themselves as the workmen of M/s. I.B.P. Co. Ltd., nor can claim for their regularization under its management, they are not entitled to any relief.

7. The O.P./Management in its rejoinder has categorically denied all the allegations of the persons concerned, and stated that they were engaged through contractor, they were being paid wages by the contractor.

FINDING WITH REASONING

8. In the reference WW1 Gurupada Sen, WW2 Arun Kumar Dutta for the workmen and MW1 G.S. Rana, Dy. Manager (A & A) Indian Oil Corporation, Dhanbad for the management have been examined in full respectively.

WW1 Gurupada Sen has apparently admitted that his appointment letters dt. 18.1.92, 9.3.92, 4.4.92 and 22.5.92 (Extt. W 1 series) were for the period from Jan. 20 to March, 03, March 9—31, April 4 to May, 16 and May, 22 to July, 4. 1992 respectively, thereafter he did not get any appointment letters. These letters relate to his appointment as trainee General Workman in this Organization (Of the Former I.B.P. Co., Ltd. now IOCL) at Singurauli (M.P.) on temporary basis. His certificate dt. 18.10.1993 (Ext. W.2) issued by the Company relates to his working as Electrician intermittently and whenever required during 1 and 1/2 years. As per the later dateless of the I.B.P. Co. Ltd., Rajmahal (now in Jharkhand) (Ext. W.3) he was allotted a quarter from 1.11.1997, his PF Contribution statements (Ext. 4 and 4/1) for the year 2003-04 and 2004-05 proved Gurupada Sen.'s contribution under the Employees Provident Fund Scheme 1952. The Employees Provident Fund & Misc Provision Act., 1952 under Sec. 2 (f)(i) defines and includes "employed by or through contractor in or in connection with the work of the establishment". His straightway admission that the workmen were paid their wages through contractor Deepak Enterprises, Bhagalpur, the contractor of then I.B.P. Company (Indo-Bermum Petroleum Company Ltd.) from June, 1999, prior to which, they had got wages from the R.K. Jaiswal for same period in the year 1997, they worked under the contractor for two times; and that in fact, the company never permanently appointed them for the job, and he (WW1) could not count the days for working.

9. Likewise, statement of MW2 Arun Kumar Dutta reveals his acceptance that neither any of the seven workmen has any appointment letter for a post nor there was any advertisement for the posts they had worked on, though he claimed that all the seven workmen had got their individual payment of wages through "Yourself Cheques" as per the copy of his letter to the Branch Manager, SBI, RCMP Branch, Urjanagar, Godda for issuance of Certified Copy of payment details (Ext. W.5). The witness (WW2) has tried to show the allotment of quarters to the Officer and the workmen as per its copy (Ext. W.6) but it does mention of any workmen, rather as per the dateless letter of the Manger (SMS)(Ext. W. 6/1) the witness Arun Kumar Dutta (W.W. 2) was allotted Quarter No. B/152-442 one room at Urjanagar Township., *w.e.f.* his possession. Admittedly as per the seven authorization certificates (Extt. W. 7 series) relate to receiving/collecting of Road Permit concerned only by Mr. Zaharias Minj and Mr. Arun Kumar Dutta only two workmen. The brief work description of Mr. Zachrias Minj (Ext. W. 8) proves the receipt of his monthly salary by him initially through the contractor

M/s. Raj Kishor Jaiswal of Distt: Godda for 92,365,131 days in the year 1997, 1998 and 1999 respectively. Witness Arun Kumar Dutta, (WW. 2) also claimed his PF Contributions as per his PF Slip for the year and 2004-05 and 2003-04 (Ext. W. 4/2) also claimed his PF Contributions as per his PF Slip for the year and 2004-05 and 2003-04 (Extt. W. 4/2-5 respectively). It is also alleged that though they do not any union, he (WW 2) was authorized by rest workmen for it.

10. Whereas the statement of MWI G.S. Rana as Dy. Manager (A & A) for the management for his tenure from April, 1996 to June, 2001 at Lalmatia transpires the emergence of I.B.P. Co. Ltd. with the Indian Oil Corporation in 1997 (then in 2007 on recall); earlier the entering into the agreement by the I.B.P. Co. Ltd., with the Coal India Ltd., in 1994 for the supply of explosives by the Company to the Coal India Ltd., for mining. It is also reveals that he (MWI) had proposed to the Plant Manager concerned as per the proposal dt. 20.04.1997 (Ext. M. 1) for deployment of manpower on contract. On the receipt of the three quotations from contractors Raj Kishor Jaiswal, Deepak Construction and Md. Nasdiya (Ext. M. 3 series) against the tender dt. 21.04.1997 issued by him in behalf of Sri S.K. Mondal, the Manager of I.B.P. Company Ltd. (Ext. M. 2) as per his Tender Committee Note prepared on 31.04.1997 (Ext. M. 4) under the signatures of the Committee Members including him, area Sales Manager S. Sonkar, Asstt. Manager Jayant Lal, SMS followed by the approval of the Committee, contractor R.K. Jaiswal was given an order for three months for supply of different labours, and the contract was further accordingly extended for three months from 1st May to 31st Oct., 1997 as per the letter dt. 18.7.1993 of the Plant Manager and the consent letter dt. 21.07.1997 of the R.K. Jaiswal Contractor (Ext. M. 6 and 6/1 respectively) after approval of the Manager (SMS) on his (MWI) proposal note dt. 15.07.1997 (Ext. M. 5) as well as on the recommendation of the aforesaid Tender Committee (Ext. W. 6/2).

11. Further the MWI G.S. Rana affirms that consequent upon declination of the aforesaid contract R.K. Jaiswal to supply the Company different labour in October, 1997 as per his proposal dt. 22.11.1997 for direct contract with individual workmen concerned for one year only, the Chief Manager Anup Dasgupta approved it (Ext. M. 7). On his another proposal dt. 14.9.1998 (Ext. M. 7/1) for the renewal of the aforesaid contract with the workmen for further one year, it was approved by the manager concerned. Thereafter at his proposal dt. 1.7.1999, though the Tender Committee Members Sr. Manager S.K. Mondal and other concerned to the Dy. G.M. (Marketing) (Ext. M. 7/2) and out of four contractors, Contractor Deepak Enterprises Construction was awarded a contract on his consent as per his letter dt. 10.7.1999 (Ext. M. 6/3) for composite jobs in the Plan for nine months from 1.7.1999 to 31.3.2000, so the statements of the workmen about their

regular working for the management after their selection for permanent jobs is false, so their demand for their regularization in their job is not justified.

His cross examination firmly discloses that during his tenure these seven workmen had intermittently worked as per their contract when the contractor refused to deduct their Provident Fund from their consolidated charges for their work for one year, the management used to deduct it for that one year as per the statue. The Management's Certificate of Registration as the Principal Employer is producable, if required, but the management does not maintain any register for issuance of a licence of contract to the contractor etc., rather it is maintained by the contractors themselves. The workmen were never paid salaries by the management for their job. They were directly under the control of their contractors concerned for their job.

12. Mr. S.N. Goswami, the Learned Counsel for the workmen as per written argument submits that the workmen have continuously rendered their service for more than 240 days in each calendar year to the Company by performing their assigned jobs of permanent nature till 2005 directly under the control and supervision of the Company, their contribution to the Provident Fund from their salaries prove them as the employees of the Company, but on their protest to the payment of wages below the minimum wages, the employees of the Company, but on their protest to the payment of wages below the minimum wages, the action of the management to stop their monthly salaries w.e.f. 1999 is unjustified, and during pendency of the case, they were terminated from their services without any Notice under Sec., 25 F of the I.D. Act. Mr. Goswami, the Learned Counsel for the workmen has relied upon the ruling: 2005(106) FLR 1171(Jharkhand H.C. (Sb), Management FCI Vs. Union of India through Labour Secretary & Ors, which relates to the protection of workmen under Sec. 25 F of the Industrial Dispute Act., 1947, and whether their regularization-wherein their Lordship was pleaded to hold not to interfere with the Award of the Tribunal whereby sudden termination of the respondent's service without compliance with Sec. 25F was held illegal, they were re-instated with full back wages, as the workmen concerned by his evidence had proved his working for more than 240 days in one calendar year, and persons similarly situated were regularized by the management. But in view of the admission of the workmen concerned as contractual ones for certain period only, their case falls under Sec. 2(oo)(bb) of the Industrial Dispute Act, 1947 as an exception to retrenchment/termination u/s 25F of the said Act. In result, the plea of Mr. Goswami, Ltd. advocate for the Union for the alleged continuous service just as the cited ruling holds not good with the present case under adjudication.

13. Just contrary to it. Mr. D.K. Verma, the Learned Counsel for the O.P./Management, has contended that as

per the terms of the reference the workmen claim themselves as the workmen of the company as contracted with their payment through intermediaries, so their plea as the workmen of the Company is contradictory, and that MWI has proved the intermittent engagement of the workmen through the aforesaid contractors, they are not entitled to any relief, as the Hon'ble Apex Court has been pleased to hold in the case of the SAIL that no contractual workmen can be regularized and that the Principal employer defaulter for not granting a licence to its contractor is accountable for punishment.

14. On perusal and severe consideration of the materials available on the case record, I find that the facts as under:

(I) These workmen S/Shri G.P. Sen and 6 others in the reference were out and out contractual workers for relevant periods, so there was never the employer-employee relationship between the parties.

(II) They are completely failure in establishing the factor as to when and how their intermittent casual workmanship turned into their status as the employees of the O.P./Management Company.

(III) So far as the maintainability of the present Industrial Dispute is concerned, it is unmaintainable in back of the requisites of the Industrial Dispute as defined under Sec. 2(k) of the I.D. Act, 1947, moreover the present case individually raised by one workman for all ones beyond the purview of the term retrenchment/termination as defined under Sec. 2(00) of the said Act. Under these circumstances in the terms of the reference, it is hereby:

ORDERED

That the award be and the same is passed that these workmen S/Shri G.P. Sen, S. P. Srivastava, Gotam Ghosh, R.N. Verma, Zachrias and Vinod Sonkar can not claim themselves as the workmen of the I.B.P. Company Ltd., at Lalmatia, Godda, as they were the casual workmen of the contract concerned, but not of the said Company, and contractors themselves for limited periods, so the question whether the action of the management in not regularizing their alleged services and stopping their salaries, *w.e.f.*, July, 1999 onwards as justified or not, does not rise. Hence, these workmen are not entitled to get any relief. Let the copies—one hard and one soft of the Award be sent to the Ministry of Labour & Employment for information and needful publication in the Gazette of India.

KISHORI RAM, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2777.—ऑद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भांजा मिनरल्स प्राइवेट लिमिटेड इंजनिझरान आयरन एंड मैग्नीज माइंस के प्रबंधतंत्र के

संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय, भुबनेश्वर के पंचाट (संदर्भ संख्या 28/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/12/2013 को प्राप्त हुआ था।

[सं० एल-27012/3/2003-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2777.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2003) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bhanja Minerals (P) Ltd., Injanjharan Iron & Mn. Mines and their workman, which was received by the Central Government on 12/12/2013.

[No. L-27012/3/2003-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL— CUM-LABOUR COURT, BHUBANESWAR

PRESENT: Shri J. Srivastava, Presiding Officer,
C.G.I.T.-cum-Labour Court, Bhubaneswar.

Industrial Dispute Case No. 28/2003

Date of Passing Order—9th September, 2013

BETWEEN:

The Managing Director, Injanjharan Iron & Mn. Mines, M/s. Bhanja Minerals (P) Ltd., At. Parik Street, Po. Keonjhar, Dist. Keonjhar, Orissa.

... 1st Party-Management

AND

Miss Kamali Naik,
D/o. Late Nadi Naik,
At./Po. Dhubakuchida, Via. Champa,
Keonjhar, Orissa.

... 2nd Party-Workman

APPEARANCES:

Shri S.K. Mohapatra,	... For the 1st Party-
Auth. Representative.	Management

None.	... For the 2nd Party-
	Workman

AWARD

The Government of India in the Ministry of Labour vide its letter No. L-27012/3/2003-IR(M) dated 19.06.2003 has referred an industrial dispute existing between the employers in relation to the management of the Managing Director, Injanijharan Iron & Mn. Mines and their workmen in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 in respect of the following matter:—

Whether the action of the management of M/s. Bhanja Minerals (P) Ltd., Injanijharan Iron Mn. Mines, At/Po. Injanijharan, Via Joda, Dist. Keonjhar in terminating the services of Smt. Kamali Naik, Miner At./Po. Dhobakuchida, Via. Champua, Dist. Keonjhar from 8.1.2001 without serving proper notice and also without complying the provisions of Industrial Disputes Act, 1947 is justified? If not, what relief the workman is entitled to?

2. The 2nd Party-workman has submitted her statement of claim alleging that she was engaged by the 1st Party-Management twenty five years back as P.R.M. at the mines and since the date of joining she had been working sincerely and honestly without giving any chance of complaint to the higher authorities. But suddenly the Manager of the Mines stopped her from duty on the plea that there is no work for her as the working place requires development work. The Manager assured her that after completion of the developmental work she will be given duty as before. She demanded alternative job in other sites of mines, but she was not provided any job. The Managing Director also assured her to wait till completion of the development work and thereafter she will be provided job as usual. The 1st Party-Management thus dismissed her from job without following the rules of the establishment and the principles of natural justice. No opportunity was given to her before dismissal of service. Therefore she was forced to refer the matter before the Conciliation officer-cum-Assistant Labour Commissioner (Central), Rourkela. The 1st Party-Management did not co-operate with the Conciliation officer to settle the dispute. Hence the Conciliation Officer submitted his report to the Government and consequently this dispute was referred to this Tribunal.

3. The 1st Party-Management denying all the allegations of the 2nd Party-workman has stated that the present matter was before the Labour Enforcement Officer (Central), Barbil, where the 2nd Party-workman had filed a petition to call the 1st Party-Management to settle the dispute amicably relating to her termination. The 1st Party-Management on being called appeared before the Labour Enforcement Officer (Central), Barbil and the matter was resolved finally by way of amicable settlement and the 1st Party-Management had paid an amount of Rs. 13,035 towards full and final settlement of the claim to the 2nd Party-workman, who received the said amount in presence

of the General Secretary of the North Orissa Workers Union and the Labour Enforcement Officer (Central), Barbil. After receiving the said amount the 2nd Party-workman has no more cause of action or ground to raise any dispute against the 1st Party-Management and the reference should be dismissed out-rightly on this score. The reference is also time barred, illegal and unjustified and not maintainable in the eye of law as there exists no dispute at all. The claim statement has been filed after four long years in May, 2007 only with ill intention to harass as well as to put the 1st Party-Management into unnecessary troubles. The said memorandum of settlement is quite binding on both the parties.

4. On the pleadings of the parties following issues were framed.

ISSUES

1. Whether the action of the Management of M/s. Bhanja Minerals (P) Ltd., Injanijharan Iron & Mn. Mines At./Po. Injanijharan, Via. Joda, Dist. Keonjhar in terminating the services of Smt. Kamali Naik, Miner, At/Po. Dhobakuchida, Via. Champua, Dist. Keonjhar from 8.1.2001 without serving proper notice and also without complying the provisions of Industrial Disputes Act, 1947 is legal and proper?

2. If not, what relief the workman is entitled to?

5. In this case the 2nd Party-workman never appeared in the Court and even sent her claim statement through post nearly after four years on giving repeated notices to her. She has also not adduced any oral or documentary evidence in support of her claim. Therefore there is no evidence from the side of the 2nd Party-workman to substantiate her claim. On the other hand from the side of the 1st Party-Management sworn affidavit of Shri Sribatsa Kumar Mahapatra has been filed in evidence along with certain docements in support of its case, wherein the witness has stated that the 2nd party-workman was given Rs. 13,035 in full and final settlement of the dispute by the 1st Party-Management on 25.8.2003.

FINDINGS

ISSUE NO.1

6. The burden to prove this issue lies on the 2nd Party-workman, but since the 2nd Party-workman has failed to adduce any evidence in support of her claim this issue is bound to be decided against her. Hence the 1st Party-Management has indirectly admitted that the 2nd Party-workman was terminated from job and on raising the dispute before the Labour Enforcement Officer (Central), Barbil a settlement was arrived at between both the parties and sum of Rs. 13,035 was paid to the 2nd Party-workman in full and final settlement of the dispute. No ground of termination has been disclosed by the 1st Party-Management in its written statement. The 2nd Party-

workman has alleged that she was terminated after rendering twenty five years of service without serving any notice or due compliance of the statutory provisions. But these allegations were not substantiated by any evidence by the 2nd Party-workman. The 2nd Party-workman has already been compensated by the 1st Party Management for her termination. If any violation of rules was committed by the 1st Party-Management, compensation for that has been paid. Therefore no specific finding is either required or may be given in view of the evidence on record. This is decided accordingly.

ISSUE NO.2

7. Since the 2nd Party-workman had already been paid compensation of Rs. 13,035 by the 1st Party-Management in full and final settlement of the dispute of which no denial has been made by the 2nd Party-workman, the 2nd Party-workman is not entitled to any further relief.

8. Reference is answered accordingly. Dictated and Corrected by me.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2778.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टील अथारिटी ऑफ इंडिया लिमिटेड रॉडरकेला स्टील प्लांट के प्रबंधतत्र के संबद्ध नियोजकों और उनकी कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या 11/2013) प्रकाशित करती है जो केन्द्रीय सरकार को 12/12/2013 को प्राप्त हुआ था।

[सं० एल-29011/52/2012-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2778.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2013) of the Central Government Industrial Tribunal/Labour Court, Bhunaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Steel Authority of India Limited, Rourkela Steel Plant and their workman, which was received by the Central Government on 12/12/2013.

[No. L-29011/52/2012-IR(M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT: Shri J. Srivastava, Presiding Officer,
C.G.I.T.-cum-Labour Court, Bhubaneswar.

Industrial Dispute Case No. 11/2013

Date of Passing Order - 3rd July, 2013

BETWEEN:

The Chief Executive Officer, SAIL,
Rourkela Steel Plant, P.O. Rourkela,
Distt. Sundargarh.

.... 1st Party-Management

AND

Their workman represented through the
Dy. General Secretary, Rourkela Mazdoor
Sabha, Bisra Road, Rourkela - 769 001,
Distt. Sundargarh.

.... 2nd Party-Union

APPEARANCES:

None	For the 1st Party-Management.
------	------	-------------------------------

None	For the 2nd Party-Union.
------	------	--------------------------

ORDER

This reference was received in this Tribunal on 28.2.2013. The 2nd party-Union was required to file the statement of claim in pursuance of the order of reference dated 6.2.2013 within fifteen days from the date of receipt of the order of reference. But on failure of the 2nd party-Union to file the statement of claim, a notice was issued to it on 22.3.2013 by ordinary post. When the 2nd Party-Union did not respond to the notice and file the statement of claim by the date fixed, a second notice under registered post was issued to it on 28.5.2013. But despite receiving the two notices, the 2nd party-Union neither turned up on the Tribunal nor taken any steps to file the statement of claim. Therefore it appears that either the 2nd Party-Union has lost interest in prosecuting its case or might have settled the dispute with the Management amicably out of the court. In any case the 2nd party-Union should have appeared in the Tribunal and laid down its stand in the case. In absence of any pleadings raised by the 2nd Party-Union no adjudication of dispute can take place.

2. Under the above circumstances this Tribunal is of the view that a no-dispute award is to be passed in the case. Accordingly a no-dispute award is passed.

3. The reference is answered in the above terms.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2779.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आईटी०डी०सीमेंटेशन इंडिया लिमिटेड एंड इंडियन आयल कारपोरेशन लिमिटेड के प्रबंधतत्र के संबद्ध नियोजकों और उनकी कर्मकारों के बीच अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 67/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 12/12/2013 को प्राप्त हुआ था।

[सं० एल-29012/10/2012-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2779.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 67/2012) of the Central Government Industrial Tribunal/Labour Court, Bhunaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ITD Cementation India Limited and Indian Oil Corporation Limited and their workman, which was received by the Central Government on 12/12/2013.

[No. L-29012/10/2012-IR(M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT: Shri J. Srivastava, Presiding Officer,
C.G.I.T.-cum-Labour Court, Bhubaneswar.

Industrial Dispute Case No. 67/2012

Date of Passing Order-10th September, 2013

BETWEEN:

1. M/s. ITD Cementation India Ltd.,
Contractor of IOCL Refinery Project,
At./Po. Jhimani Paradip, Jagatsinghpur, Orissa.
2. The Deputy General Manager,
ITD Cementation India Ltd.
Regd. Office-1st Floor, Dani Wooler
Compound-158, Vidyanagar Marg,
Kalika, Santacruz, East Mumbai-400 098.
3. The Deputy General Manager,
Indian Oil Corporation Ltd., Refinery Project,
At./Po. Jhimani, Paradip, P.S./Dist.
Jagatsinghpur.

... 1st Party-Managements

AND

Shri Ganga Sagar Patra,
S/o. Goutam Patra,
Vill. Majurai, Sailo, Govindapur, Cuttack.

... 2nd Party-Workman

APPEARANCES:

Shri R.G. Shetty,	... For the 1st Party-
Sr. General Manager.	Management No. 1 & 2.
None	... For the 1st Party- Management No. 3.
Shri Ganga Sagar	... For himself, the 2nd Party- Patra.

ORDER

Case taken up. Senior General Manager of I.T.D. Cementation India Limited on behalf of the 1st Party-Management No. 1 and 2 and the 2nd Party-workman in person are present. None is present of the 1st Party-Management N. 3, who was subsequently made party to the reference.

2. The parties present have entered into a settlement regarding the present dispute and a memorandum of settlement in Form-H has already been filed on record, which has been verified today by the parties present.

3. The 2nd Party-workman states that he has now no grievance regarding the dispute with any of the Managements as he has settled the dispute with the 1st Party-Management No. 1 and 2 and received the amount agreed upon. A receipt of payment has also been filed. Therefore no dispute remains to be adjudicated upon.

4. Accordingly the reference is decided in terms of the memorandum of settlement which shall form part of the order.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2780.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स अरुण कंस्ट्रक्शन एंड मेसर्स जीएस अटवाल सुकिंदा क्रोमाइट माइंस के प्रबंधतंत्र के संबद्ध नियोजकों और उनकी कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 45/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 12/12/2013 को प्राप्त हुआ था।

[सं० एल-29012/17/2011-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2780.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 45/2012) of the Central Government Industrial Tribunal/Labour Court, Bhunaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Arun Consturction/M/s G.S. Atwal, Sukinda Chromite Mines and their workman, which was received by the Central Government on 12/12/2013.

[No. L-29012/17/2011-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR**

PRESENT: Shri J. Srivastava, Presiding Officer,
C.G.I.T.—cum-Labour Court, Bhubaneswar.

Industrial Dispute Case No. 45/2012

Date of Passing Order—8th March, 2013

BETWEEN:

1. The M/s. Arun Construction,
Sub-contractor of M/s. G.S. Atwal,
At. Kanehipur, Po. Jajpur Road,
Dt. Jajpur-755 019. (Orissa)
2. M/s G.S. Atwal, Contractor of
Sukinda Chromite Mines, At./Po. Kalarangiatta,
PS. Kaliapani, Jajpur.

..... 1st Party-Managements

AND

Shri Krupasindhu Mohanto,
S/o. Krutibas Mohanto, At. 1, Birshanagar,
Po. Kalarangiatta Ps. Kaliapani, Dist. Jajpur, Orissa

..... 2nd Party-Workman

APPEARANCES:

None	... For the 1st Party- Managements No. 1 & 2.
None	... For the 2nd Party- Workman.

ORDER

A reference under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act was made to this Tribunal by the Government of India *vide* letter No. L-29012/17/2011-IR(M) dated 13.4.2012.

2. The 2nd Party-workman in pursuance of the letter of reference has to file the statement of claim within fifteen days of the receipt of letter of reference, but the 2nd Party-workman has not filed any statement of claim within the stipulated period allowed in the letter of reference. Thereafter a notice was issued to him through registered post on 27.9.2012 fixing 6.11.2012 for filing of statement of claim, but the 2nd Party-workman did not respond to this notice. Again a notice on 2.1.2013 under ordinary post and a notice on 15.1.2013 under registered post were issued to him, but neither the 2nd Party-workman turned up nor filed any statement of claim. A period of nearly ten months has expired and no steps have been taken by the 2nd Party-workman to pursue his case. Therefore it seems that the 2nd Party-workman is not interested in pursuing his case. Either he is not interested in further prosecuting his case or he might have settled the dispute amicably with the 1st

Party-Management out of the court. Therefore, under these circumstances, a no dispute award has to be passed in the case. Accordingly a no dispute award is passed.

3. The reference is answered accordingly in the above lines.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

कांगा० 2781.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स अरुण उद्योग कटपाल क्रोमाइट माइंस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 56/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/12/2013 को प्राप्त हुआ था।

[सं० एल-29012/22/2011-आईआर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2781.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 56/2012) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s Arun Udyog, Katpal Chromite Mines and their workman, which was received by the Central Government on 12/12/2013.

[No. L-29012/22/2011-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR**

PRESENT: Shri J. Srivastava, Presiding Officer,
C.G.I.T.—cum-Labour Court, Bhubaneswar.

Industrial Dispute Case No. 56/2012

Date of Passing Order—8th March, 2013

BETWEEN:

1. M/s. Arun Udyog,
Katpal Chromite Mines, FACOR,
At. Dahanigadia, Charampa, Dist. Bhadrak.

..... 1st Party-Management

AND

Shri Rajkumar Singh Munda,
S/o, Shri Birsingh Munda,

At. Ostapal, Po. Kansa, Dist. Jajpur,
Orissa.

..... 2nd Party-Workman.

APPEARANCES:

None	—	For the 1st Party-Management.
None	—	For the 2nd Party-Workman.

ORDER

The Government of India has referred an industrial dispute *vide* its letter No. L-29012/22/2011-IR(M), dated 1.5.2012 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act for adjudication to this Tribunal.

2. The 2nd Party-workman in response to the order of reference was required to file his statement of claim within fifteen days of the receipt of the order of reference, but he failed to file any statement of claim within that period. Hence a notice under registered cover was issued to him on 27.9.2012, but no response was received from him. Then again a notice under registered cover was issued to him on 22.1.2013 calling upon him to file his statement of claim by 6.3.2013. But neither he appeared in the court nor filed any statement of claim.

3. The reference was received in this Tribunal on 17.5.2012 and a period of nearly ten months is to expire, but the 2nd Party-workman has not taken any steps to prosecute his case. He does not either seem to be interested in the case or has settled the dispute with the 1st Party-Management outside the court. Therefore it will be of no use if the case is kept pending any more. Under these circumstances a no-dispute award is to be passed in the case. Accordingly no-dispute award is passed.

4. The reference is answered in the light of above observations.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 दिसम्बर, 2013

का०आ० 2782.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स प्रदीप माइनिंग एंड कंस्ट्रक्शन प्राइवेट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 16/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/12/2013 को प्राप्त हुआ था।

[सं० एल-29012/48/2012-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th December, 2013

S.O. 2782.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 16/2013) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s Pradeep Mining & Construction (P) Limited and their workman, which was received by the Central Government on 12/12/2013.

[No. L-29012/48/2012-IR(M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT: Shri J. Srivastava, Presiding Officer,
C.G.I.T.-cum-Labour Court, Bhubaneswar.

Industrial Dispute Case No. 16/2013

Date of Passing Order-22nd July, 2013

BETWEEN:

M/s. Pradeep Mining & Construction (P) Ltd.,
Chorda, Jaipur Road, Jaidpur, Odisha.

...1st Party-Management

AND

Their workman Shri Ramakanta Mohanta,
Vill. Badakhatis, Po. Odisha, Via Mothakoragala
Bhuban, Dist. Dhenkanal, Odisha.

...2nd Party-Workman

APPEARANCES:

None. ... For the 1st Party-Management.

None. ... For the 2nd Party-Workman.

ORDER

Case taken up. Parties are absent. The 2nd Party-workman has not turned up and filed any statement of claim despite sending notices through ordinary post on 28.3.2013 and registered post on 31.5.2013, though he was required to file his statement of claim complete with relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of the order of reference. Nearly a period of five months has expired since the receipt of reference, but the 2nd Party-workman has not even taken any steps to prosecute his case. Without pleadings of the parties the dispute cannot be adjudicated upon, as referred by the Government. Hence the reference is liable to be returned unanswered to the Government.

2. Accordingly the reference is returned unanswered to the Government for necessary action at its end.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 2783.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 जनवरी, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप धारा-(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध राजस्थान राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:

क्रम सं.	राजस्व गांव के नाम	तहसील का नाम	जिला
1.	पुर, मुझरास	भीलवाड़ा	भीलवाड़ा

[सं. एस-38013/79/2013-एस.एस.1]
जार्जकूटी टी. एल., अवर सचिव

New Delhi, the 18th December, 2013

S.O. 2783.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Rajasthan namely:—

Sl. No.	Name of the village/area	Tehsil	District
1.	Pur, Mujharas	Bhilwara	Bhilwara

[No. S-38013/79/2013-S.S.1]
GEORGEKUTTY T.L., Under Secy.

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 2784.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 जनवरी, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप धारा-(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध उड़ीसा राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:

“जिला गंजाम की कनिसि तहसील में उदयपुर, गोपालपुर एवं नारायणपुर के राजस्व गांव”

[सं. एस-38013/81/2013-एस.एस.1]
जार्जकूटी टी. एल., अवर सचिव

New Delhi, the 18th December, 2013

S.O. 2784.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Odisha namely:—

“The areas comprising of the revenue villages of Udayapur, Gopalpur and Narayanpur in the Tahsil Konisi in the District of Ganjam.

[No. S-38013/81/2013-S.S.1]
GEORGEKUTTY T. L., Under Secy.

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 2785.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ऊनीटेक वायरलेस नॉर्थ प्राइवेट लिमिटेड देहरादून के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, दिल्ली के पंचाट (संदर्भ संख्या 09/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं. एल-42012/125/2012-आई आर (डीयू)]
पी० के० वेणुगोपाल, सेक्शन ऑफिसर

New Delhi, 18th December, 2013

S.O. 2785.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 09/2013) of the Central Government Industrial Tribunal/Labour Court No. 2, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Unitech Wireless (North) Pvt. Ltd., Dehradun and their workman, which was received by the Central Government on 18/12/13.

[No. L-42012/125/2012-IR (DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI

PRESENT:- Shri Harbansh Kumar Saxena

ID No. 09/13

Sh. Suman Singh,
67, Gangal, Panditwari,
Post Ganghara,
Dehradun.

Versus

Unitech Wireless (North) Pvt. Ltd,
Dehradun.

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No L-42012/125/2012-IR(DU) dated 01.02.13 referred the following industrial Dispute to this tribunal for the adjudication:—

"Whether the action of management of Walsons Services Pvt. Ltd. Secruitas India (Trade Name) in terminating the services of Shri Suman Singh, Shri Ram Gopal and Shri M.S. Negi w.e.f. 01.10.2011, without complying with 25 F of the ILD Act, 1947 is justified, if not to what relief he is entitled to?"

On 18/02/13 reference was received in this tribunal. Which was register as I.D. No. 9/13 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant has not filed claim statement inspite of sufficient opportunities. On 23/09/13 this Tribunal directed management to file response to the reference made to this Tribunal.

In compliance of which management on 25.10.13 filed response wherein management alleged as follows:—

Sir,

Most humbly and respectfully we beg to submit the following facts before this honorable court for perusal and consideration:

That the above cases related to the complainant namely M/s. Suman Singh ID No. 11078, Mahavir Singh Negi ID No. 9550 and Ram Gopal ID.No. 11080 was to be heard on different dates like 05.04.2013, 12.06.2013, 26.07.2013, 19.08.2103, 23.09.2013.

That on 05.04.2013 we had prayed to Hon'ble Court to provide us copy of the complainant of the Complainant.

That we have never been provided any copy of complaint of the complainant since the complainant are frequently absenting from appearance before the Hon'ble Court in spite of given 6 dates for appearance.

That in absence of the complainant and non receipt the copy of the complaint the matter is unnecessarily lingering in the Hon'ble Court for its disposal.

That it is pertinent to mentioned here before this Hon'ble Court that I being the Authorized Representative of M/s. Walsons Services Pvt. Ltd. attended all the dates fixed by this Hon'ble Court for hearing.

In pursuant to above facts, I beg to submit before this Hon'ble Court to close this matter for ever reason being

absence of the complainant on all the dates fixed by this Hon'ble Court, or this Hon'ble may take any other action which it thinks fit in the interest of Justice.

Prayed Accordingly,

Jasvant Chauhan
Sr. Manager (Personnel)
And
Authorized Representative.

In this background this Tribunal has no option except to pass No Dispute Award in light of averments made in the aforesaid response by the management.

No Dispute Award is accordingly passed.

Dated:- 02/12/2013

HARBANSK KUMAR SAXENA, Presiding Officer

नई दिल्ली, 18 दिसम्बर, 2013

का०आ० 2786.—औद्योगिक विवाद अधिनियम 1947, (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार हियर बय पब्लिशड थे अवार्ड (रेफ नो. 202/2012) म्युनिसिपल कारपोरेशन ऑफ़ डेल्ही के प्रबंधपत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण एवं श्रम न्यायालय नं० 1, दिल्ली के पंचाट (संदर्भ संख्या 202/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/12/2013 को प्राप्त हुआ था।

[सं० एल-42011/68/2010-आई आर (डी यू)]
पी० के० वेणुगोपाल, सेक्शन ऑफिसर

New Delhi, the 18th December, 2013

S.O. 2786.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 202/2012) of the Central Government Industrial Tribunal/Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Municipal Corporation of Delhi, New Delhi and their workman, which was received by the Central Government on 18/12/13.

[No. L-42011/68/2010-IR(DU)]
P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, DELHI**

I.D. No. 202-2012

The President,
Nagar Nigam Karamachri Sangh,
Delhi Pardesh, P-2/624,
Sultanpuri, Delhi-110045

...Workman

Versus

The Commissioners,
Municipal Corporation of Delhi,
Town Hall, Chandni Chowk,
Delhi-110 006.

...Management

AWARD

A chowkidar employed at MC Primary School, Nawada II, Delhi, by Municipal Corporation of Delhi (in short the Corporation) claimed payment of overtime allowance, since he was made to work beyond normal duty hours. His claim was not conceded to by the Corporation. He approached the Nagar Nigam Karamchari Sangh (Delhi) (in short the union) for redressal of his grievances. The union served notice on the Corporation seeking overtime allowance for duties performed in excess of normal working hours, wages for weekly holidays, gazettee holidays and casual leaves, which notice was not responded to. A dispute was raised before the Conciliation Officer. Since the Corporation contested the claim, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to this Tribunal for adjudication *vide* Order No. L-42011/68/2010-IR(DU) dated 04.04.2001, with following terms:

"Whether action of the management of Municipal Corporation of Delhi (MCD) in denying overtime wages to the workman, Shri Baljeet Singh, S/o late Shri Hari Singh, Chowkidar for performing 10 (ten) hours duty per day since the regularization of the workman Shri Baljeet Singh with effect from 01.04.1984 is justified or not? If not, what relief the workman is entitled to and from which date?"

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions, so given, the Chowkidar, namely, Shri Baljeet Singh opted not to file his claim statement with the Tribunal.

Notice was sent to Shri Baljeet Singh by registered post on 27.12.2012, calling upon him to file claim statement before the Tribunal on or before 17.01.2013. This notice was sent to him through the union, at P-2/624, Sultanpuri, Delhi the address provided by the appropriate Government in order of reference. Neither the claimant nor the union responded to the notice, so sent.

4. Since none came forward on behalf of the claimant to file his claim statement, fresh notice was sent to him by registered post 22.01.2013 calling upon him to file claim statement before the Tribunal on 11.02.2013. Notices were

transmitted to the claimant by registered post on 12.02.2013 and 12.03.2013 asking him to file his claim statement on or before 08.03.2013 and 09.04.2013 respectively. Lastly, notice dated 10.04.2013 was sent by registered post commanding the claimant to file his claim statement before the Tribunal on or before 24.05.2013. Neither the postal articles, referred above, were received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notices were severed upon the claimant. Despite service of these notices, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf.

5. Since onus of the question referred for adjudication was there on the Corporation, it was called upon to file its response to the reference order. Corporation filed its response, pleading therein that the claim was not properly espoused by the union, hence liable to be rejected. It further asserted that the dispute has been raised at a belated stage, hence it became stale. The appropriate Government cannot refer such a dispute for adjudication, as it has become stale. The dispute is liable to be rejected on this count also, claims the Corporation.

6. The Corporation projects that claimant was getting overtime allowance @ Rs. 625.00 upto a maximum of 50 hours in a month in accordance with circular dated 15.03.1997. For work performed on sundays and holidays, the chowkidars gets compensatory leave in lieu thereof, hence not entitled to overtime allowance. Chowkidars are entitled to 15 days casual leave, 3 national holidays and 6 other holidays of their choice in every calendar year. Their normal duty hours are 10 hours per day and previously chowkidars were entitled to 24 hours rest (one day) in fortnight. Now, a chowkidar is getting overtime allowance of 100 hours per month in accordance with circular dated 09.05.2011. Details of overtime allowance granted to the claimant from June '88 to March 2013 are annexed as Annexure C with the response. In view of these facts, claimant is not entitled to any relief, claims the corporation.

7. Arguments were heard at the bar. None came forward on behalf of the claimant to advance arguments. Shri Abhinav Kumar, authorized representative, assisted by Shri Jagdish Chandra, U.D.C. raised submissions on behalf of the Corporation. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:

8. At the outset, it has been argued that the dispute has not acquired status of an industrial dispute since it has not been validly espoused by the union. For an answer, definition of the term industrial dispute is to be construed. For sake of convenience, definition of the term "industrial dispute", as defined by Section 2(k) of the Industrial Disputes Act, 1947 (in short the Act).

“(k) "Industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person".

9. The definition of "industrial dispute, referred above, can be divided into four parts, *viz.* (i) factum of dispute (2) parties to the dispute, *viz.* (a) employers and employers, (b) employer and workmen, or (c) workmen and workmen, (3) subject matter of the dispute, which should be connected with—(i) employment or non employment, or (ii) terms of employment, or (iii) condition of labour of any person, and (4) it should relate to an "industry".

10. The definition of "industrial dispute" is worded in very wide terms and unless they are narrowed by the meaning given to word "workmen" it would seem to include all "employers", all "employments" and all "workmen", whatever the nature or scope of the employment may be. Therefore, except in the case where there can be a dispute between the employers and employers and workmen and workmen, one of the parties to an industrial dispute must be an employee or a class of employees. The first point, therefore, to be noted, perhaps self evident, is that the phrase "employer and workmen", the plural may include singular on either side or any permutation of singular or plural, the masculine including the feminine. In order, therefore, to determine as to whether a controversy or difference or a dispute is an "an industrial dispute" or not, it must first be determined whether the workman concerned or workmen sponsoring his cause satisfy the conditions of clause (s) of section 2 of the Act. Here in the case, the Corporation does not dispute that the claimant is workman within the meaning of clause(s) of section 2 of the Act.

11. The Apex Court put gloss on the definition of "industrial dispute" in Dimakuchi Tea Estate [1958 (1) LLJ 500] and ruled that the expression "any person" in clause (k) of section 2 of the Act must be read subject to such limitation and qualification as arise from the context, the two crucial limitations are (i) the dispute must be a real dispute between the parties to the dispute (as indicated in the first two parts of the definition clause) so as to be capable of settlement or adjudication by one party to the dispute giving necessary relief to other, and (2) the person regarding whom the dispute is raised must be one for whose employment, non employment, terms of employment or conditions of labour, as case may be, the parties dispute for a direct or substantial interest. Where workman raised a dispute as against their employment the person regarding whose employment, non employer, terms or employment or conditions of labour, the dispute is raised need not be strictly speaking "workman" within the meaning of the Act, but must be one in whose employment, non employer, terms

of employment, or conditions of labour the workmen as a class have a direct or substantial interest. The observations made by the Apex Court are to be extracted thus:

"We also agree with the expression "any person" is not co extensive with any workman, particular or otherwise, equal with other, that the crucial test is one of community of interest and the person regarding whom the dispute is raised must be one in whose employment, non employment, terms of employment, conditions of labour (as the case may be) the parties to the dispute have a direct or substantial interest. Whether such direct or substantial interest has been established in a particular case will depend on its facts and circumstances."

12. In Kyas Construction Company (Pvt.) Ltd. [1958 (2) LLJ 660] the Apex Court ruled that an industrial dispute need not be a dispute between the employer and his workman and that the definition of the expression "industrial dispute" is wide enough to cater a dispute raised by the employer's workman with regard to non employment of others, who may not be employed as workman at the relevant time. The Apex Court in Bombay Union of Journalist [1961 (II) LLJ 436] has observed that in each case in ascertaining whether an individual dispute has acquired the character of an industrial dispute, the test is whether at the date of reference, the dispute was taken up as submitted by the union of the workmen of the employer against whom, the dispute is raised by an individual workman or by an appreciable number of workmen. In order, therefore, to convert an individual dispute into an industrial dispute, it has to be established that it has been taken up by the union of employees of the establishment or by an appreciable number of the employees of the establishment. As far as union of the workmen of establishment itself is concerned, the problem of espousal by them generally presents little difficulty, since such workmen who are members of such unions generally have a continuity of interest with an individual employee who is one of their fellow workman. But difficulty arise when the cause of a workman, in a particular establishment is sponsored by a union which is not of the workmen of that establishment but is one of which membership is open to workmen of their establishment as well as in that industry. In such a case a union which has only microscopic number of the workmen as its member, cannot sponsor any dispute arising between the workmen and the management. A representative character of the union has to be gathered from the strength of the actual number of co workers sponsoring the dispute. The mere fact that a substantial number of workmen of the establishment in which the concerned workman was employee were also members of the union would not constitute sponsorship. It must be shown that they were connected together and arrived at an understanding by a resolution or by other means and collectively submitted the dispute.

13. The expression "industrial disputes" has been construed by the Apex Court to include individual disputes, because of the scheme of the Act. In Raghu Nath Gopal Patvardhan [1957(1) LLJ 27] the Apex Court ruled as to what dispute can be called as an industrial dispute. It was laid thereon that (1) a dispute between the employer and a single workman cannot be an industrial dispute, (2) it can not be per-se be an industrial dispute but may become if it is taken up by a trade union or a number of workmen. In Dharampal Prem Chand [1965(1) LLJ 668] it was commanded by the Apex Court that a dispute raised by a single workman cannot become an industrial dispute unless it is supported either by his union or in the absence of a union by substantial number of workmen. Same law was laid in the case of Indian Express Newspaper (Pvt.) Limited [1970(1) LLJ 132]. However in Western India Match Company [1970 (II) LLJ 256], the Apex Court referred the precedent in Drona Kuchi Tea Estate's case [1958(1) LLJ 500] and ruled that a dispute relating to "any person becomes a dispute where the person in respect of whom it is raised is one in whose employment, non employment, terms of employment or conditions of labour, the parties, dispute for a direct or substantial interest".

14. What a substantial or considerable number of workmen would be in a given case, depend on particular facts of the case. The fact that an "industrial dispute", is supported by other workmen will have to be established either in the form of a resolution of the union of which workman may be member or of the workmen themselves who support the dispute or in any other manner. From the mere fact that a general union, at whose instance an "industrial dispute" concerning an individual workman is referred for adjudication, has on its roll a few of the workmen of the establishment as its members, it cannot be inferred that the individual dispute has been converted into an "industrial dispute". The Tribunal has therefore, to consider the question as to how many of the fellow workman actually espoused the cause of the concerned workman by participating in the particular resolution of the Union. In the absence of a such a determination by the Tribunal, it cannot be said that the individual dispute acquired the character of an industrial dispute and the Tribunal will not acquire jurisdiction to adjudicate upon the dispute. Nevertheless, in order to make a dispute an industrial dispute, it is not necessary that there should always be a resolution of substantial or appreciable number of workmen. What is necessary is that there should be some express or collective will of a substantial or an appreciable member of the workmen treating the cause of the individual workman as their own cause. Law to this effect was laid in P. Somasundrameran [1970(1) LLJ 558].

15. It is not necessary that the sponsoring union is a registered trade union or a recognized trade union. Once it is shown that a body of substantial number of workmen either acting through a union or otherwise had sponsored

the workman's cause, it is sufficient to convert it into an industrial dispute. In Pardeep Lamp Works [1970(1) LLJ 507] complaints relating to dispute of ten workmen were filed before the Conciliation Officer by the individual workmen themselves. But their case was subsequently taken up by a new union formed by a large number of co workmen, if not a majority of them. Since this union was not registered or recognized, the workmen elected five representatives to prosecute the cases of ten dismissed workmen. Thus cases of the dismissed workmen were espoused by the new union, yet unregistered and unrecognized. The Apex Court held that the fact that these disputes were not taken up by a registered or recognized union does not mean that they were not "industrial dispute".

16. It is not expedient that same union should remain incharge of that dispute till its adjudication. The dispute may be espoused by the workmen of an establishment, through a particular union for making such a dispute an "industrial dispute", while the workman may be represented before the Tribunal for the purpose of section 36 of the Act by a member of executive or office bearer of altogether another union. The crux of the matter is that the dispute should be a dispute between the employer and his workmen. It is not necessary that the dispute must be espoused or conducted only by a registered trade union. Even if a trade union ceases to be registered trade union during the continuance of the adjudication proceedings that would not affect the maintainability of the order of reference. Law to this effect was laid by the High Court of Orissa in Gammon India Limited [1974(II) LLJ 34]. For ascertaining as to whether an individual dispute has acquired character of an individual dispute, the test is whether on the date of the reference the dispute was taken up as supported by the union of the workmen of the employer against whom the dispute is raised by the individual workman or by an appreciable number of the workman. In other words, the validity of the reference of an industrial dispute must be judged on the facts as they stood on the date of the reference and not necessarily on the date when the cause occurs. Reference can be made to a precedent in Western India Match Co. Ltd. [1970 (II) LLJ. 256].

17. Here in case, not even an iota of facts are brought over the record to the effect that the union took up the cause of the claimant as their own. It is also not shown that the members of the union had shown their collective will in favour of the cause of the claimant. Thus it is evident that there is a complete vaccum of the facts to the effect that the union espoused the cause of the claimant. Resultantly there is no material to conclude to the effect that the dispute acquired status of an industrial dispute. The reference is liable to be answered against the claimant on that score.

18. Corporation contest the dispute on the count that no notice of demand was served on it prior to raising a dispute before the Conciliation Officer. These facts also

remained uncontested. The object of the Act is to protect workman against victimization by the employer and ensure termination of industrial dispute in a peaceful manner. The Act, however, does not provide for any set of social and economic principles for adjustment of conflicting interests. Such norms have been evolved and devised by industrial adjudication, keeping in view the social and economic conditions, the needs of the workmen, the requirement of the industry, social justice, relative interests of the parties and common good. These norms have given rights to the industrial employees what may be called industrial rights, as such rights may not be available at common law. Disputes as to the conditions of employment can be resolved by resorting to a technique known as collective bargaining. This tool is resorted to between an employer or group of employers and a bonafide labour union. Policy behind this is to protect workmen as a class against unfair labour practices. What imparts to the dispute of a workman the character of an "industrial dispute" is that it affects the right of the workmen as a class.

19. An industrial dispute comes into existence when the employer and the workman are at variance and the dispute/difference is connected with the employment or non-employment, terms of employment or with conditions of labour. In other words, dispute or difference arises when a demand is made by the workman on the employer and it is rejected by him and vice versa. In Sindhu Resettlement Corporation Ltd. [1968(1) LLJ 834], the Apex Court has held that mere demand, asking the appropriate Government to refer a dispute for adjudication, without being raised by the workmen with their employer, regarding such demand, cannot become an industrial dispute. Hence, an industrial dispute cannot be said to exist until and unless a demand is made by the workman or workmen on the employer and it has been rejected by him. In Fedders Lloyd Corporation Pvt. Ltd. (1970 Lab. I.C. 421), High Court of Delhi went a step ahead and held that "...demand by the workman must be raised first on the management and rejected by it, before an industrial dispute can be said to raise and exist and that the making of such a demand to the Conciliation Officer and its communication by him to the management, who rejected the demand, is not sufficient to constitute an industrial dispute."

20. The above decision was followed by Orissa High Court in Orissa Industries Pvt. Ltd. (1976 Lab. I.C. 285) and Himachal Pradesh High Court in Village Paper Pvt. Ltd. (1993 Lab. I.C. 99). However, the Apex court in Bombay Union of Journalists [1961 (2) LLJ 436] had ruled that an industrial dispute must be in existence or apprehended on the date of reference. If, therefore, a demand has been made by the workman and it has been rejected by the employer before the date of reference, whether direct or through the Conciliation Officer, it would constitute an industrial dispute. In Shambhunath Goyal [1978(1) LLJ 484], the Apex Court appreciated facts that the workman had not made a

formal demand for his reinstatement in service. However, he had contested his dismissal before the Enquiry Officer and claimed reinstatement. Against the findings of the Enquiry Officer, he preferred an appeal to the Appellate Authority, claiming reinstatement on the ground that his dismissal was bad in law. Then again, he claimed reinstatement before the Conciliation Officer in the course of conciliation proceedings, which was contested by the employer. Appreciating all these facts, the Apex Court inferred that there was impeccable evidence that the workman had persistently demanded reinstatement, rejection of which brought an industrial dispute into existence.

21. In New Delhi Tailor Mazdoor Union [1979(39) FLT 195], High Court of Delhi noted that Shambhunath Goyal had not overruled Sindhu Resettlement Pvt. Ltd. But it had distinguished it on facts. It was also pointed out that decision of three Judges bench in Sindhu Resettlement Pvt. Ltd. could not have been overruled by two Judge bench in Shambhunath Goyal. The High Court concluded that decision in Sindhu Resettlement Pvt. Ltd., in case of any conflict between the two decisions, must prevail. The High Court held that making of the demand by the workman on the management was sine qua non for giving rise to an industrial dispute.

The High Court of Madras in Management of Needle Industrial [1986(1)LLJ 405] has held that dispute of difference between management and the workman, automatically arises when the workman is dismissed from service. His dismissal per se creates a dispute or difference between the management and the workman. The Court further observed that "it is nowhere stipulated in the Act, particularly in section 2(k), that existence of the dispute as such is not enough but then there should be a demand by the workman on the management to give rise to an industrial dispute". However, this decision appears to be inconsistent with the ratio of decision in Bombay Union of Journalists (supra) and Sindhu Resettlement (supra). No doubt, for existence of an industrial dispute, there should be a demand by the workman and refusal to grant it by the management. However, a demand should be raised, cannot be a legal notion of fixity and rigidity. Grievances of the workman and demand for its redressal must be communicated to the management. Means and mechanism of the communication adopted are not matters of much significance, so long as demand is that of the workman and it reaches the management. Reference can be made to the precedent in Ram Krishna Mills Coimbatore Ltd. [1984 (2) LLJ 259].

23. The Act nowhere contemplates that the industrial dispute can come into existence in any particular, specific or prescribed manner nor there is any particular or prescribed manner in which refusal should be communicated. For an industrial dispute to come into existence, written claim is not sine qua non. To read into the definition, requirement

of written demand for bringing an industrial dispute into existence would tantamount to rewriting the section, announced the Apex Court in Shambunath Goya (*supra*). In other words, oral demand and its rejection will as much bring into existence an industrial dispute, as written one. If facts and circumstances of the case show that the workman had been making a demand, which the management had been refusing to grant, it can be said that there was an industrial dispute between the parties.

24. Since the claimant had not come forward to project that demand notice was served on the corporation, under these circumstances, stand taken by the corporation is to be believed. Corporation projects that no notice of demand was served on it, before industrial dispute was raised before the Conciliation Officer. Thus, it is emerging over the record that it has been established that demand was raised on the Corporation, which was rejected by it and as such, dispute has not acquired status of an industrial dispute.

25. Turning to facts presented by the Corporation, it emerges that the Corporation takes 10 hours duty from Chowkidars. Keeping in view the nature of duties performed, the Corporation was paying intermittent allowance to Chowkidars for performing more than 10 hours duty. Allowance was paid @ Rs. 130.00 per month for performance of duty upto 12 hours, Rs. 180.00 per month for duties performed for more than 12 hours but upto 16 hours and Rs. 190.00 per month for performing duties than 16 hours a day. Workers union agitated the issue and demanded overtime allowance in lieu of intermittent allowance. On the basis of the resolution, the Corporation, *vide* its decision dated 15.03.1997 decided to pay overtime allowance to the maximum limit of 50 hours. The said allowance was paid @ 625.00 per month. Workers union further demanded enhancement of maxima limit of overtime allowance and in consideration of the said demand, the Corporation started paying overtime allowance with a cap of 100 hours a month. Now, the Corporation is paying overtime allowance to Chowkidars at Rs.1250.00, in pursuance of Officer Order dated 09.05.2011.

26. Annexure C, when scanned, highlights that from January 98 till March 2011, overtime allowance was paid to the claimant @ Rs.625.00 per month. From April 2011 till March 2013, overtime allowance has been paid to the claimant @ 1250.00 per month. Therefore, it is emerging over the record that overtime allowance is being paid to the claimant in accordance with the circulars issued by the Corporation from time to time.

27. Section 10 (1) of the Act does not prescribe any period of limitation for making reference of the dispute for adjudication. The works 'at any time' used in sub section (1) of section 10 of Act does not admit of any limitation in making an order of reference. Law of limitation, which might

bar any Civil Court from giving remedy in respect of lawful rights, cannot be applied by Industrial Tribunals. However, policy of industrial adjudication is that stale claim should not be generally encouraged or allowed unless there is satisfactory explanation for delay. In *Shalimar Works Ltd.* [1959 (2) LLJ 26], the Apex Court pointed out that though there is no limitation prescribed in making reference of the dispute to Industrial Tribunal, even so, it is only reasonable that disputes should be referred as soon as possible after having arisen and on failure of conciliation proceedings. In *Western India Match Company* [1970 (2) LLJ 256] the Apex Court observed that in exercising its discretion, Government will take into account time which has lapsed between its earlier decision and the date when it decides to consider it in the interest of justice and industrial peace to make the reference for adjudication. Same view was taken in *Mahabir Jute Mills Ltd.* [1975 (2) LLJ 326]. In *Gurmail Singh* [2000 (1) 1080] Industrial Adjudicator dismissed the reference on the ground that there was delay of 8 years in raising the dispute, which delay was condoned by the Apex Court and it was ordered that the workman would not be entitled to any back wages for the period of 8 years but would be entitled to 50% of wages from the date it raised the dispute till the date of his reinstatement. In *Prahлад Singh* [2000 (2) LLJ 1653], the Apex Court approved the award of the Tribunal in not granting any relief to the workman who preferred the claim after a period of 13 years without any reasonable or justifiable grounds. From above decisions, it can be said that the law relating to delay in raising or reference of dispute is benefit of any principles, which can be easily comprehended by the litigants.

28. Claimant raised the dispute in respect of overtime allowance paid to him with effect from 01.04.1994. Thus, it is emerging over the record that the claimant had raised the dispute after a long gap of 28 years. No explanation is offered for this inordinate delay. It appears that there was no industrial dispute in existence or could be even said to have been apprehended in the year 2012, when the appropriate Government applied its mind to the fact of the present controversy.

29. In view of the above reasons, it is evident that the action of the Corporation in paying overtime allowance to the claimant @ Rs. 625.00 per month till March 2011 and thereafter Rs.1250.00 till date is in accordance with the circulars issued from time to time. Claimant is not entitled to overtime allowance more than the amount referred above. Resultantly, action of the Corporation is found to be justified. No relief is available to the claimant. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 20.08.2013

R. K. YADAV, Presiding Officer